

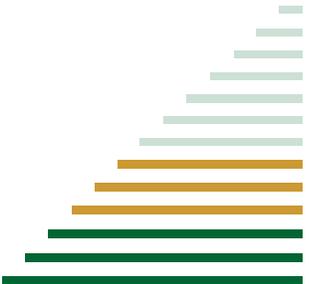
Task Force on Prison Crowding

Mike Stephens, Chairman

Governor Bob Riley
State of Alabama



October 27, 2005



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Michael Stephens
Chairman
Task Force on Prison Crowding

Re: Final Report

Dear Governor Riley:

On behalf of the members of the Task Force on Prison Crowding, I would like to thank you for your unflagging support throughout our process of investigating the issues facing the Department of Corrections and formulating the necessary solutions. I would also commend to you the individual members of the Task Force. Each member brought to the Task Force his/her expertise, insight, and tireless effort. Without such a committed and cooperative approach on behalf of the members, I am confident that the successful completion of our mission would not have been possible.

The following report represents the sum and substance of the findings of the Task Force. As you are aware, the members of the Task Force held five public meetings in which testimony was presented by employees from the effected State agencies. Testimony was also presented by national experts on the following topics: community corrections; re-entry programs and facilities; prison development; effective restructure of criminal justice systems; sentencing reform; information systems; and, the effective gathering and processing of data. It is based upon this testimony and the voluminous written materials the Task Force received on each of these topics, that the Task Force made its findings of fact and recommendations.

The Task Force found that systemic deficiencies have combined with financial challenges to bring the Alabama Department of Corrections to its current state of decline. Innovation and decisive action are required to ensure that the Department of Corrections can meet the modern challenges of protecting the safety of our citizens while also providing comprehensive rehabilitative services to its inmates.

The following report serves as the foundation for a strategic plan that will be fully implemented over the next three to five years. The reforms endorsed herein will have an immediate impact upon the Department of Corrections and will serve as the genesis for long term recovery and advancement.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Stephens", written in a cursive style.

Michael Stephens
Chairman, Task Force on Prison Crowding

**TASK FORCE ON PRISON CROWDING
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State Senator, 19th District (Jefferson County)

Miriam Shehane
Executive Director, Victims of Crime and Leniency (VOCAL)

Summary of Task Force Recommendations

Based upon the testimony and written information presented during its initial five meetings, the Task Force makes six recommendations for the reform of the Alabama Department of Corrections (DOC). Those recommendations, summarized below, are followed by a complete analysis.

The Task Force first endorses and recommends the immediate passage of the sentencing reform legislation drafted by the Alabama Sentencing Commission. The adoption of this legislation will stabilize the prison population and ensure its steady decline.

The Task Force next endorses the development of a new information system for DOC and the passage of legislation that will enable the various criminal justice agencies to share critical data with one another. These reforms will ensure that inmates are at all times properly classified and placed within the system.

Third, the Task Force recognizes that the State must adopt additional, more effective means of incarceration and punishment that emphasize both community protection and rehabilitation. For its criminal justice system to be effective and efficient, Alabama must integrate a technical violators center and three male transition centers with the traditional prisons. The State must also expand its community corrections system so that each county in the State has access to one of the individual centers.

The fourth recommendation of the Task Force is that the prison industries program be expanded so that DOC can make efficient use of its closed work release centers. Not only will this expansion grant inmates additional opportunities to work, it will provide the Department much needed income.

Fifth, the Task Force recommends the addition of new secure beds into the system. The need for more beds is currently being partially met by contracting with out-of-state private prisons. The Task Force also recognizes that this growing need can soon be met by contracting with an in-state private facility and by constructing a new prison.

Finally, the Task Force recommends that the substance abuse programs within DOC be expanded to meet the growing demand on the system. As a critical part of this expansion, the Task Force further recommends that these programs be certified by the Department of Mental Health.

Introduction

State government, through its criminal justice system, is charged with protecting the lives and welfare of its people and is, therefore, granted the power to profoundly control their lives by means of incarceration. This extraordinary state power is not unfettered, but rather operates within the confines of both state and federal constitutions, taking into consideration the needs of society as a whole. As such, we must regularly subject the components of the criminal justice system to rigorous scrutiny to ensure that the system works to effectively protect the public while remaining efficient, equitable, and constitutionally sound.

To this end, Governor Bob Riley formed the Task Force on Prison Crowding to thoroughly evaluate the current state of the Alabama Criminal Justice System and to particularly address the growing concern over the crowded conditions within the prisons. The Task Force held five public meetings in which testimony was presented by employees of the following Alabama State agencies: Department of Corrections; Pardons and Paroles; Sentencing Commission; Administrative Office of Courts; Criminal Justice Information Center; and, Mental Health. Testimony was also presented by national experts on the following topics: community corrections; re-entry programs and facilities; prison development; effective restructure of criminal justice systems; sentencing reform; information systems; and, the effective gathering and processing of data. In addition to this oral testimony, the Task Force received voluminous written materials on each of these topics that were presented to, and reviewed by, its members.

Based upon this information, the Task Force has found that, at a time when other state criminal justice agencies have made significant innovations, the Alabama Department of Corrections has lagged far behind. By clinging to outdated philosophies and obsolete management systems that have been in place for at least the past three decades, the Department of Corrections has deteriorated to the point of crisis.

The following report serves as the foundation of a strategic plan that will be fully implemented over the next three to five years. The reforms endorsed herein will have an immediate impact upon the Department of Corrections and will serve as the genesis for long term recovery and advancement. These recommendations are sequenced to reflect the importance placed upon each by the Task Force with the most crucial reforms presented first.

I. Sentencing Reform Legislation

Reform legislation proposed to help alleviate Alabama's prison and jail overcrowding problems has been drafted and submitted to the Legislature the last two years by the Alabama Sentencing Commission. These recommendations, central to which are voluntary sentencing standards, are the result of over four years of work by the Sentencing Commission. The proposals offer both short term and long term solutions for criminal justice and sentencing reform by emphasizing the following: the need to reserve

scarce prison space for violent offenders; the expansion of a judge's sentencing options for nonviolent offenders; eliminating unwarranted sentencing disparity; and, resolving ambiguities in our criminal laws. (Appendix A)

The Sentencing Commission's legislative package has received the endorsement of the Unified Judicial System (UJS) Legislative Committee and has gained the approval of the House of Representatives and Senate Judiciary Committee. Failure of the sentencing standards and accompanying bills to pass the Legislature was not due to opposition, but because other matters were given priority. In fact, those directly involved in this legislative effort believe that the packet has broad based majority support in the Alabama Legislature.

The legislative recommendations are the first step toward sentencing reform that will help reduce prison and jail overcrowding, immediately upon implementation as well as in the future. (Appendix B) This legislation further represents the first step to achieving Truth in Sentencing in Alabama. In recognition of the importance of immediate approval and implementation of the sentencing standards and supporting bills, the Task Force recommends that the Sentencing Commission's bills be given priority and considered in a special legislative session on sentencing matters. Each delay postpones the next step toward sentencing reform, as outlined in the Alabama Sentencing Reform Act of 2003.

The Bills are summarized below:

1. Sentencing Standards Bill

This Bill proposes the adoption of voluntary sentencing standards for 26 felony offenses, in compliance with the directives included in the Sentencing Reform Act of 2003. These sentencing recommendations are voluntary, non-appealable, historically based, time imposed, sentencing standards developed for 26 felony offenses, representing 87% of all felony convictions and sentences imposed in Alabama over an approximate five-year period from October 1, 1998 through May 31, 2003. These standards provide recommended sentence ranges and dispositions for the covered offenses, recognizing the impact of key factors normally considered by judges in imposing sentences. These recommended sentence ranges provide judges with additional information and direction in lieu of the wider ranges currently available under existing statutory law. Use of the standards will result in greater uniformity in sentencing and the elimination of unwarranted sentencing disparity.

This legislation is virtually the same as the sentencing standards bill that was introduced during the 2004 and 2005 Regular Sessions that passed the House both years, and was in a position to pass on the last night of the 2005 Regular Session. Some minor changes have been made to the Bill including an amended implementation date for the filing of the actual sentencing standards. Also, a provision was added to require filing of the standards with the Clerks of the Senate and House, as well as the Clerk of the Alabama Supreme Court.

2. Access to Juvenile and Youthful Offender Records

This Bill amends §§ 12-15-100 and 15-19-7 of the *Code of Alabama* 1975, to provide statewide access to juvenile and youthful offender records for judges, prosecutors, victim service officers, probation and parole officers, court personnel, and defense attorneys. Confidentiality will, however, continue to be maintained with regard to the general public and all non-essential persons and entities. These records are significant in determining sentencing outcomes and essential for the completion of worksheets required for the implementation of the sentencing standards.

3. Pardon and Paroles Facility Fees

This Bill amends § 15-22-30 of the *Code of Alabama* 1975, increasing the amount that can be deducted from the wages of residents of residential facilities operated by the Board, from 25% to 45%, for the payment of court costs, fines, fees, assessments, and victim restitution. This comports with the amounts now authorized to be deducted in § 15-18-180 *Code of Alabama* 1975, as amended by Act 2003-353, for defendants assigned to a work release or other residential program operated by a community corrections provider.

4. Amendment of Burglary 1st and 2nd Degree Statutes to Eliminate the “Loot Rule” for Deadly Weapons

This bill recognizes that offenders in the same circumstances should be treated alike and amends §§ 13-7-5 and 13-7-6 of the *Code of Alabama* 1975, relating to Burglary in the 1st and 2nd degrees. The amendments require that an offender either be armed with a deadly weapon upon entry into a dwelling or building or use or threaten the immediate use of a deadly weapon in order to be convicted of the higher offense. It is specifically provided that, if the deadly weapon or dangerous instrument is one of the items stolen in the burglary, the crime does *not* involve the “use” or “threatened use” of the deadly weapon or dangerous instrument.

5. Correction of the Theft of Property 2nd Degree Statute

In 2004, the threshold for Theft of Property 2nd Degree was inadvertently changed back to the pre-2003 level in a bill changing the words “horses” and “mules” to “equine” and “equidae.” The pre-2003 statutory language was used in making the amendment. This change effectively eliminated the crime of Theft of Property 2nd Degree. Under current law, there is no Theft of Property statute that makes it a crime to steal property ranging in value from \$1,000 to \$2,500.

6. Driving Under the Influence (DUI) Statute; Out of State Convictions

Under current law, prior DUI convictions from out-of-state may not be used for the purpose of enhancing punishment when a person is subsequently convicted for violating Alabama’s DUI statute. This creates an anomaly, in that a DUI offender could have numerous prior DUI convictions in another state and yet could be convicted and sentenced as a first offender if he drives drunk in Alabama. This Bill would amend Alabama’s DUI statute to specifically authorize the use of out-of-state convictions for enhancements under § 32-5A-191, Alabama’s DUI Law.

7. Authorize (not mandate) Increase of the Maximum Fines for Offenses

The fines authorized for criminal offenses have not been adjusted since the Criminal Code was originally codified back in the 1970's. This Bill amends §§ 13A-5-11 and 13A-5-12 of the *Code of Alabama 1975*, to increase (based on the inflation index) the maximum amount of fines authorized to be assessed upon one convicted of a felony, misdemeanor, or state law violation. If passed, the amendments would allow the judge to retain his/her discretion to impose any lesser fine amount and would simply authorize the imposition of a larger fine in appropriate cases.

The proposed fines are comparable to those authorized in Tennessee, Georgia, and Virginia as well as to the fines imposed for new offenses in Florida, Mississippi, and South Carolina.

8. Drug Trafficking Statute

Alabama's current drug trafficking statute fails to provide a fine for the most serious trafficking offense and does not include the drugs commonly referred to as "ecstasy." This Bill amends Alabama's drug trafficking statute, § 13A-12-231 of the *Code of Alabama*, to provide a fine for the most serious trafficking offenses, to include the ecstasy drugs, and to correct the fine for trafficking in hydromorphone.

II. Improved Criminal Justice Information Systems and Data Exchange

The Task Force reviewed the findings of the Alabama Sentencing Commission and heard testimony from the criminal justice departments and agencies, private industry, and national experts provided by the Vera Institute of Justice regarding the critical need to ensure that the State is utilizing compatible and state-of-the-art criminal justice information systems to accurately collect, process, and exchange vital criminal data among the effected agencies. The proper collection, interpretation, and dissemination of this data can assure accountability and the correct classification of inmates within the entire criminal justice and Pardons and Paroles systems. It is vital to the safety of the public, as well as to the rehabilitation of the inmates, that inmates be placed in the appropriate facilities and programs. Only with accurate reports and tracking programs can we ensure that scarce resources are not squandered or misappropriated. Finally, the accurate collection and processing of data is essential to the long range planning process necessary to correct the problems facing the Department of Corrections – we can no longer afford to apply uninformed quick fixes to the critical issues facing this Department.

Development and implementation of a fully integrated criminal justice information system requires the sharing of information by the Alabama Sentencing Commission, the Administrative Office of Courts (AOC), the Board of Pardons and Paroles, and the Department of Corrections (DOC). The Administrative Office of Courts, in collaboration with the Board of Pardons and Paroles, the Alabama Criminal Justice Information Center, the Alabama Sentencing Commission, and the Department of Corrections, has proposed

the creation of a complete sentencing tracking module that will initiate at the point of felony conviction and track the defendant as he or she passes from agency to agency in the post sentencing process. The Task Force endorses the immediate development and implementation of this module.

To make this module a reality, the Legislature must pass legislation specifically authorizing the free exchange of an inmate's criminal history and demographic information between criminal justice agencies, as well as requiring the filing of an electronic pre-sentence or post-sentence report for every convicted felon. If adopted, such proposals would greatly expedite the work of criminal justice agencies by making the agencies more efficient and would also result in more comprehensive and reliable data. Ideally, from initial complaint through arrest, trial, conviction, sentence, and release from sentence, the same information would follow an offender through the criminal justice system. This is not currently the case. Now, separate agencies must often either re-collect or re-key data already collected, unnecessarily subjecting the data (facts pertaining to an offender or an offense) to human error.

One critical missing component of the sentencing phase of the Alabama criminal justice process is the ability to monitor the "pipeline" of defendants who are awaiting sentencing, awaiting pre-sentence investigation, awaiting transportation, etc. No one knows the status or location of a defendant in the "pipeline" until he/she literally arrives on the doorstep of the Department of Corrections. This deficiency has also contributed to the increasing backlog of state inmates in the county jails which, if not dealt with promptly and effectively, could reach critical proportions. (Appendix C)

Many critical elements of this module exist today - the necessary technology infrastructure is in place. The Administrative Office of Courts and Pardons and Parole have separate but complete data on each defendant. DOC must now participate as a full partner in developing this system. For DOC to become fully integrated into this system, it must invest in both modern hardware and software. Testimony revealed that only about half the data generated within the Department is computerized and what little computer capacity DOC does have is so antiquated as to be wholly incompatible with modern applications. For example, instead of incorporating transcript information received from the Administrative Office of Courts in electronic format, DOC employees must retype the hard copy information into their system. This process is not only inefficient, but it also creates considerable opportunity for error.

The modernization of the information technology system at DOC would be a three-year process requiring a total of \$2 million spread over that three year period. The Administrative Office of Courts and Criminal Justice Information Center have already developed a viable modernization plan and are simply awaiting the proper funding. The Task Force, therefore, recommends that the necessary funding be allotted to the Department of Corrections to cover the cost of this vital information systems upgrade.

III. Alternative Means of Punishment and Correction

An efficient modern corrections system cannot rely solely upon hardened facilities for punishment and rehabilitation. Broad and difficult experience has uniformly demonstrated time and again that the expense of these facilities outweighs their effectiveness in reducing crime and victimization in our communities. Absent a clear and effective rehabilitative program complete with incentives for reform, released inmates will continue to endanger public safety.

The State must, therefore, turn to other more effective means of incarceration and punishment that emphasize both community protection and rehabilitation. For a criminal justice system to be effective, it must include each of the following resources in addition to the hardened prisons.

A. Technical Violators' Center

During fiscal year 2005, there were 2,930 inmates sent to prison based on a parole or probation revocation. Of these, 1,351 were revoked for only technical violations of supervision (any violation of supervision other than committing a new criminal offense). Based on the population of inmates committed to the Department of Corrections in August 2005, these offenders represent approximately 5% of the inmate population.

Technical violations of supervision differ from violations for the commission of a new offense and include infractions ranging from failing to report as ordered, failing to pay court-ordered monies, changing residence without permission, testing positive for drugs, use of alcohol, or leaving the state without permission. When an offender commits a technical or minor criminal violation there are currently few sanctions, short of revocation, available as a means of correction. These violators are returned to the general prison population and serve time among violent career criminals. For parolees, revocation will result in incarceration for the remainder of the sentence originally imposed, regardless of how minor the violation, subject to a possible later grant of parole.

Several states, including Arkansas, Arizona, Georgia, Delaware, Indiana, Ohio, and Pennsylvania, have implemented technical violator centers that include an intensive residential program (usually 60-90 days) followed by supervision and treatment in a community setting. These programs include drug treatment, relapse prevention, education, mental health counseling, and vocational training. This programmatic focus on re-entry training and employability must be emphasized for such a facility to operate effectively.

Establishing technical violation centers for offenders would provide judges and the Parole Board with an option other than returning the offenders to the general prison population. With one 150 to 200 bed minimum technical violator center operational, the courts or the Board could place offenders on delinquent status and order them to complete a three to six month program at the center, based on the type of violation and

individual treatment needs. Programming would involve intensive substance abuse treatment, a GED program, and social and life skills programming. Upon successful completion, the offender could be reinstated to probation and parole.

It is the recommendation of the Task Force that one 150 to 200 bed minimum technical violator center be established within the next fiscal year. This facility should focus its programs on substance abuse treatment as part of its re-entry curricula and on employability. The Task Force further recommends that the number of times a single inmate can be placed in the Center be restricted to two. Upon the third parole violation resulting in delinquent status, the inmate's parole must be revoked and that inmate remanded to DOC for the remainder of his sentence.

B. Transition Centers

Upon the recommendation of the Sentencing Commission, the Board of Pardons and Paroles established the first Alabama transition center in April of 2004 - L.I.F.E. Tech (Lifeskills Influenced by Freedom and Education) - in the closed Tarwater Mental Health facility located in Wetumpka. L.I.F.E. Tech has alleviated the crowded conditions at Tutwiler while at the same time ensuring public safety by providing effective re-entry programs to certain inmates being released back into society.

L.I.F.E. Tech utilizes the services offered by various state, county, and local programs to ensure that the inmates are provided with the most effective rehabilitative programs at the lowest possible cost. The annualized cost of a transition center resident who stays an average of 4 months and graduates to regular parole supervision is currently about half the cost of incarceration. This cost efficient and effective transition facility has not only dramatically reduced the cost associated with participating inmates, it has also significantly reduced their recidivism rate.

On average, 300 inmates per month reach the end of their sentence and are released from DOC without any training. (Appendix D) Transition centers can provide the male inmates with the knowledge, treatment, and training needed to make a successful reentry into society and become law-abiding citizens. Recognizing the potential of these programs to reduce recidivism and curtail the recycling of inmates through our jails and prisons, the Task Force recommends that three transition centers for men with a capacity of at least 300 each be established and operational by October 1, 2008.

These transition centers must be closely monitored and subject to uniform criteria to ensure accountability and the quality of the programs. They should also make every effort to make full use of rehabilitative resources available in the communities where they are located. This will not only ensure significant cost savings to the program, but will increase community participation which in itself is a key component to effective rehabilitation.

Moreover, the Task Force finds that the potential of the L.I.F.E. Tech facility has not been fully realized because of disconnect in communication between Pardons and Paroles

and DOC. Currently, the facility is at about 80% capacity. DOC should, therefore, join in a cooperative effort with Pardons and Paroles to pre-screen DOC inmates at Tutwiler prison to more effectively identify those inmates suited for this program. This effort will better ensure that as many inmates as possible are sent through this rehabilitative program before being released back into society. This recommendation is a matter of public safety and should be acted upon with all deliberate speed.

C. Expansion of Community Corrections

It is beyond dispute that Alabama needs a state-wide network of community corrections programs to provide judges with more effective sentencing options for non-violent offenders and to help alleviate our prison and jail overcrowding problem. Every task force, commission, and committee on prison overcrowding has recommended that new programs be established and that existing programs be expanded to divert non-violent felons into community punishment and treatment programs to more effectively ensure public safety.

In 1988, when the Department of Corrections was operating at 98.4% of capacity and there was a backlog of 600 inmates being held in county jails awaiting transfer to State prison, the Prison Review Task Force of the Alabama Judicial Study Commission recommended “the implementation of carefully selected community-based punishment programs as an alternative to incarceration.” It is noteworthy that this recommendation was made when the State was planning the construction of two additional facilities, six additional work release centers, and renovation of the Limestone Correctional Facility to add two 200 bed dorms to meet the projected 1990 DOC population.

Our prison system is currently operating at 191.6% of capacity and the jail backlog is three times greater than in 1988. As of October 7, 2005, there were 1,822 state inmates housed in county jails awaiting transfer to a DOC facility. We have built no new prisons since Bibb Correctional Center was opened in May of 1998, and we still do not have a state-wide network of community corrections programs for felony offenders.

Progress has been made, but it is not enough. There are currently 25 community correction programs for felons, serving 34 counties, with DOC reimbursing programs for a total of 5,496 diversions over the last five years. (Appendix E) Funding through DOC for the start-up of new programs and continued operation of existing programs has recently increased, with \$5.2 million earmarked for community corrections from the General Fund for fiscal year 2006.

Although this is more than double the amounts appropriated for community corrections in the last five years, it falls just short of the \$5.5 million General Fund appropriation required by the Community Punishment and Corrections Act of 2003 to establish a separate community corrections division within the Department of Corrections with a full-time director and support staff. Adequate funding should be provided annually from the State General Fund to the Department of Corrections in the minimum amount of \$5.5 million and earmarked for community corrections programs. These funds should be

deposited in the State-County Community Corrections Partnership Fund created by the Community Punishment and Corrections Act of 2003 and shall be used for the creation of a statewide network of community corrections programs for nonviolent felony offenders through the creation of new programs and the expansion of existing programs. The funds designated for community corrections should be in addition to, and should not supplant, the funds otherwise approved and appropriated to the Department.

Although one-third of the active community corrections programs have been formed since 2000, not a single new program was established during fiscal year 05. The failure to start up new community corrections programs was not due to a lack of interest on the part of counties or courts. At least 10 counties have expressed an interest in establishing a program in their county or circuit but have not been provided assistance with start-up costs or assurances that funds for diverted felons would be forthcoming. According to the Department of Corrections, fiscal year 2006 will be the first year that sufficient funding is projected to be available to adequately fund existing programs and offer additional grants to counties or circuits seeking programs.

One of the key components of the Alabama Sentencing Commission's sentencing reform efforts involves the establishment of a continuum of punishment options, which is contingent on the establishment of a statewide network of community punishment and corrections programs. The expansion and improvement of community punishment options is not a novel concept. It is a reoccurring recommendation that has been articulated and often reiterated but never followed through to completion.

It is now time to wage an aggressive campaign for the expansion of community corrections programs, with the collaborative involvement of essential service providers, county commissions, judges, prosecutors, private industry, faith-based organizations, and the general citizenry of each community. We must also seek ways to improve existing programs by coordinating supervision and management systems.

As with the transition centers, the community corrections programs must be closely monitored and subject to uniform criteria to ensure accountability and the quality of the programs. Every effort should be made to make full use of rehabilitative resources available in the communities where the programs are located to ensure the quality and effectiveness of their programs.

Consolidation of community supervision services under a single department or agency has been recommended as a way to resolve the overlap of programs. Presently, there are three separate state agencies, operating under each of the three branches of government, that are providing separate community punishment alternatives: the Court Referral Officer Program, under the Administrative Office of Courts in the judicial branch, administers supervision of alcohol and drug treatment for the rehabilitation of convicted offenders on DUI and other drug-related offenses; the community corrections programs for felony offenders, that receives subsidies through the Department of Corrections, is under the executive branch; and the Board of Pardons and Paroles, under the legislative branch, administers probation and parole supervision.

To pursue this reorganization option, probation and community corrections experts were brought to Alabama to address the Task Force members and present their states' experiences with consolidation. The Task Force members support the concept of reorganization, acknowledging that this change would have the potential to improve efficiency, effectiveness, accountability, and increase cooperation and collaboration between service providers. It is the recommendation of the Task Force that this proposal be pursued through additional research and planning.

Likewise, a system of constant review of potential parolees by a supervising agency was recommended to ensure that inmates were not being held in prison longer than their terms required. Although increased technological efficiency at DOC will have a positive impact upon this issue, Pardons and Paroles must also act to ensure that such inequities do not occur. The Task Force, therefore, recommends that Pardons and Paroles conduct a regular review of the inmate population to determine whether any are due for a parole hearing or release.

IV. Expansion of Prison Industries and Full Utilization of Work Release Beds

DOC must operate in such a way as to fully utilize all of its assets in the most efficient and effective manner possible. By allowing bed space to remain unfilled and inmates to be idle, DOC is missing an excellent opportunity to rehabilitate inmates while at the same time generating income to offset the expenses of incarceration.

A. Expansion of Prison Industries

A recurring complaint of the present prison system is that prisoners are simply being warehoused, provided too much leisure time, and are not required to work. There are numerous inmates committed to the Department of Corrections who are not eligible for work release or community work programs. Public safety concerns require extreme caution with those prisoners who, by their criminal history or institutional behavior, have demonstrated that they would be at-risk for violent re-offending. For those inmates, participating in work release or Supervised Intensive Restitution (SIR) programs is, therefore, not an option.

If it is not safe for some inmates to work beyond the prison walls, the solution is to bring the work to them in a secure environment. This is one of the recommendations of the Governor's Task Force and can be achieved by contracting with private businesses for on-site industries. A preliminary draft of legislation that would authorize on-site prison industries and work programs within prison walls is included as Appendix F. Once implemented, these programs will not only enable inmates to make productive use of their time while incarcerated, but will provide them with opportunities to develop additional job skills, help offset incarceration costs, and earn monies to pay restitution, child support, and other court-ordered monies.

Security is a critical component of this recommendation. Although prison industry is a logical response for the rehabilitation, education, and job training of offenders who must be kept behind prison walls, it cannot be achieved without adequate security. The Task Force recommends that funding be made available to hire additional correctional officers, that incentive programs be implemented to encourage correctional officers to volunteer for security duty in these programs, and that the salaries for DOC correctional officers be increased to a pay rate and grade comparable to other law enforcement positions.

As initial groundwork for this recommendation, the Task Force recommends that there be a comprehensive review of current prison industries, work programs, and educational or rehabilitation programs, including a needs and risk assessment of all prisoners that are participating, or have participated, in these programs within the last three months.

The Task Force recognizes that additional legal research, review, and drafting will be necessary before a proposal is submitted for formal legislative approval to implement on-site industry programs and the selling of prison industry goods and services. This process should be accomplished before the next meeting of the Legislature so that DOC can begin the implementation process as soon as it becomes feasible to do so.

B. Establishing Pre-Release On-site Work Centers

Out of the 3,500 beds currently allotted to work release and community detention programs, only 1,500 were filled as of September, 2005. Since that time, approximately 300 inmates have been removed from work release as a security precaution leaving some 2,300 empty beds. These beds must be fully utilized by DOC.

Although such a resource should not be wasted, public safety must always be foremost in our considerations. In fact, DOC should conduct a thorough review of each inmate currently on work release to ensure that the public is protected.

Rather than reduce the safety precautions already in place by expanding work release to include more dangerous inmates and thereby fill the empty beds, DOC should transform the unused facilities into pre-release/on-site work centers. The purpose of each facility would be to help inmates with the transition into the free world while at the same time allowing them to repay a portion of their debt to society.

Currently, over 300 inmates reach EOS (End of Sentence) and are released from DOC each month without any supervision or transitional training. Many of these inmates have been incarcerated for long periods of time and are not only out-of-touch with society, but lack any sort of marketable job skill. Because these inmates are being sent back into society with so few options, they present a clear potential danger to their communities.

Inmates in these new facilities would receive intensive drug counseling, educational, and vocational training. At the same time, on-site prison industries programs would allow the inmates to work in a gainful capacity and generate income for the Department to help defray the cost of their incarceration.

Each facility designated for this transition would require added lighting, security, and fencing at a cost of approximately \$200,000 per facility. A maximum of three of these facilities could be developed under the current model.

V. Construction of Additional Beds

Our prison system is currently operating at 191.6% of capacity and, as of October 7, 2005, there were 1,822 state inmates housed in county jails awaiting transfer to a DOC facility. We have built no new prisons since Bibb Correctional Center was opened in May of 1998.

Even with the proper implementation of the above referenced reforms, the State's aging and often dilapidated prisons cannot be expected to serve its correctional needs. These structures must be supplemented in the near term and replaced or wholly renovated over the long term.

There are three possible short term strategies that could be followed by DOC. First, it could continue to house some inmates in out-of-state private facilities. Although this does give immediate relief from crowding, the cost associated with these facilities does not include drug treatment, mental health counseling, or other rehabilitative programs and to add these services would involve added expense. Thus, while this may be a good short-term option, it may not be a long-term solution to both prison crowding and the increased need for public safety.

Second, a new private prison will be opening in Perry County, Alabama in January of 2006. This facility will accommodate 620 inmates and can be expanded to hold an additional 900 inmates within twelve months. What potentially sets this facility apart from the private prisons outside the State is that its proximity to community resources could allow the State to see to it that inmates housed within this prison received the appropriate counseling and rehabilitative programs necessary to reduce future victimization. This facility could, therefore, be both a short-term and a long-term option.

Finally, the State could contract with a private entity to build a 2,000 bed prison for DOC on a lease-purchase contract. Such an arrangement would provide the State with a modern facility built to accommodate its special needs at a much lower cost to the tax payers. The State could operate the facility with its own employees and dictate every facet of the prison operation and, at the end of the term, would own the facility outright. Such a facility would be a long-term benefit to the system but would not provide any relief until construction could be completed within some twelve months of inception.

VI. Drug Treatment

During the 5 year period beginning June 1, 2000, through May 31, 2005, 64% of admissions to the Department of Corrections were offenders convicted of drug offenses or Felony DUI. The largest group was committed for possession offenses, with 25% convicted for the possession of controlled substances and 8% convicted for possession of marijuana in the first degree. Felony DUI (4 time DUI offenders) comprised 12% of the drug and alcohol admissions.

As of May 31, 2005, there were 5,412 state inmates, or 20% of the prison population, incarcerated for the commission of a drug offense or Felony DUI. This does not include the offenders convicted of other offenses which were drug or alcohol related. According to data provided by the Department of Corrections, as of September 1, 2005, there were a total of 2,431 inmates participating in one of DOC's drug treatment programs and 128 inmates on waiting lists to participate, which included 60 inmates that were waiting to enter a relapse program. (Appendix G)

The staff provided for the 58 drug programs consists of 12 specialists and 57 counselors. Dr. Ron Cavanaugh, Director of Treatment for the Department of Corrections, is responsible for providing administrative oversight and program evaluation and operates with no support staff and without an automated management system.

There is currently no requirement that the programs or substance abuse professionals be certified. Further, there has been no recidivism study conducted for inmates graduating from any program other than the eight crime bill programs, although DOC plans to establish a system to track recidivism rates for inmates graduating from the 16 Substance Abuse Programs (SAP), the two therapeutic community programs, the eight relapse programs, the 22 aftercare programs, and the one dual diagnosis program.

Based upon the foregoing, the Task Force recommends that:

- 1) adequate administrative support be provided to drug treatment;
- 2) a modern and efficient management system be established;
- 3) specific educational and clinical training credentials be required for all SAP counselors and specialists; and,
- 4) DOC substance abuse programs and professionals be certified by the Department of Mental Health.

APPENDIX A

Alabama Sentencing Commission Legislation

- 1. Sentencing Standards**
- 2. Access to Juvenile and Youthful Offender Records**
- 3. Pardon and Parole Facility Fees**
- 4. Burglary 1st and 2nd Amendments**
- 5. Correction of Theft of Property 2nd Statute**
- 6. DUI – Out-of-State Convictions Considered**
- 7. Increase in Maximum Fines Authorized**
- 8. Amendment of Drug Trafficking Statute**

1. SENTENCING STANDARDS

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SYNOPSIS: Under existing law, the Alabama Sentencing Commission has adopted voluntary sentencing standards for 26 felony offenses. The commission was directed to develop voluntary sentencing standards to submit to the Legislature for approval, which standards will become effective if approved by an act of the Legislature. The commission was directed to develop standards based on an analysis of historical sentencing patterns and practices adjusted to achieve sentencing goals pursuant to Article 2, Chapter 25, Title 12, Code of Alabama and court rules.

This bill approves the initial voluntary sentencing standards and the accompanying instructions and worksheets as adopted by the Sentencing Commission on December 3, 2004, and as filed with the Clerk of the Alabama Supreme Court, the Secretary of the Senate, and the Clerk of the House of Representatives. The standards provide recommended sentence ranges and dispositions when a court sentences a defendant convicted of a felony offense covered by the standards in lieu of the wider ranges under existing statutory law.

The Sentencing Commission is directed to develop and present additional voluntary truth-in-sentencing standards to the Legislature during the 2006 Regular

1. SENTENCING STANDARDS

1 Session. This bill would extend this presentation to the 2009 Regular Session of
2 the Legislature.

3 A BILL

4 TO BE ENTITLED

5 AN ACT

6
7 To adopt the initial voluntary sentencing standards of the Alabama Sentencing
8 Commission and to amend Section 12-25-34 of the Code of Alabama 1975, to extend the
9 time for the presentation of additional truth-in-sentencing standards to the Legislature.

10
11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. (a) The Legislature finds the Alabama Sentencing Commission has
13 followed the directives of the Legislature in the Sentence Reform Act of 2003,
14 Article 2 (commencing at Section 12-25-30), Chapter 25, Title 12, Code of
15 Alabama 1975, to develop and recommend to the Legislature a discretionary
16 sentencing structure designed to protect public safety by providing a fair,
17 effective, and efficient criminal sentencing system for this state by doing all of the
18 following:

19 (1) By developing a system of statewide voluntary sentencing standards
20 and worksheets for use in felony cases for 26 felony offenses representing 87
21 percent of all felony convictions in Alabama over a five-year period.

22 (2) By taking into account historical sentencing data concerning time
23 imposed and other factors that, after analysis of historical data, appear to be

1. SENTENCING STANDARDS

1 relevant in determining both the duration and disposition of sentences in the
2 applicable felony cases.

3 (3) By basing the voluntary sentencing standards on historical sentencing
4 practices adjusted to achieve sentencing goals as established in Rule 26 of the
5 Alabama Rules of Criminal Procedure and Section 12-25-31, Code of Alabama
6 1975.

7 (b) The Legislature further recognizes that the development of voluntary
8 sentencing standards by the Alabama Sentencing Commission is and should be a
9 continuous process and the Alabama Sentencing Commission has been directed to
10 continue the development of the voluntary sentencing standards recommendations
11 by collecting and analyzing sentencing data and incorporating a continuum of
12 punishment options, as required by subdivision (1) of 12-25-33, Code of Alabama
13 1975, and by identifying, testing, and recommending modifications of the initial
14 voluntary sentencing standards and worksheets as may be necessary to
15 accomplish the purposes and goals set out in Article 2, Chapter 25, Title 12, Code
16 of Alabama 1975, and Rule 26 of the Alabama Rules of Criminal Procedure.

17 Section 2. The initial voluntary sentencing standards and the
18 accompanying worksheets and standards, as adopted by the Sentencing
19 Commission on December 3, 2004, and filed with the Clerk of the Supreme
20 Court, the Secretary of the Senate, and the Clerk of the House of Representatives,
21 are approved for implementation effective on October 1, 2005, under the terms
22 and conditions set out in Sections 12-25-34 and 12-25-35, Code of Alabama 1975.

1. SENTENCING STANDARDS

1 Section 3. Section 12-25-34 of the Code of Alabama 1975 of the Code of
2 Alabama 1975, is amended to read as follows:

3 "§12-25-34.

4 "(a) Statewide voluntary sentencing standards shall be developed and presented to
5 the Legislature in stages over a three-year period as follows:

6 "(1) By July 31, 2003, the commission shall develop and distribute to all
7 sentencing judges a reference manual analyzing historical sentencing practices by
8 duration of sentence and disposition of felony offenders in Alabama. The reference
9 manual shall indicate those types of offenders historically most likely to be sentenced to
10 punishments other than active incarceration where alternatives to active incarceration are
11 available.

12 "(2) Concurrently with the development and distribution of the reference manual,
13 the commission shall develop and begin testing worksheets and voluntary sentencing
14 standards in selected circuits for selected felony offenses.

15 "(3) The commission shall develop and present the initial voluntary sentencing
16 standards to the Legislature before or during the ~~2004~~ 2006 Regular Session. These
17 standards shall be introduced in the ~~2004~~ 2006 Regular Session and shall become
18 effective on October 1 following the ~~2004~~ 2006 Regular Session, if approved by an act of
19 the Legislature passed during that session. The initial voluntary sentencing standards
20 based on sentences imposed shall apply only to convictions for felony offenses
21 committed before the effective date of voluntary truth-in-sentencing standards.

22 "(4) The commission shall develop and present voluntary truth-in-sentencing
23 standards to the Legislature before or during the ~~2006~~ 2009 Regular Session. These

1. SENTENCING STANDARDS

1 standards shall be introduced in the ~~2006~~ 2009 Regular Session and shall become
2 effective on October 1 following the ~~2006~~ 2009 Regular Session, if approved by an act of
3 the Legislature passed during that session. The voluntary truth-in-sentencing standards
4 shall apply only to felony offenses committed on or after the effective date of these
5 standards.

6 "(b) Recommended sentence ranges shall be established by standards that are
7 based on historical sentencing practices, adjusted to achieve sentencing goals as
8 established in Rule 26 of the Alabama Rules of Criminal Procedure, this chapter, and
9 Section 12-25-31.

10 "(c) Voluntary sentencing standards shall take into account and include statewide
11 historically based sentence ranges, including all applicable statutory minimums and
12 sentence enhancement provisions, including the Habitual Felony Offender Act, with
13 adjustments made to reflect current sentencing policies. No additional penalties pursuant
14 to any sentence enhancement statute shall apply to sentences imposed based on the
15 voluntary sentencing standards.

16 "(d) After adoption of the initial voluntary standards and the voluntary truth-in-
17 sentencing standards, any modifications made by the commission shall be contained in
18 the annual report presented to the Governor, the Legislature, the Chief Justice, and the
19 Attorney General. An annual report containing proposed modifications shall be presented
20 to the Governor, the Legislature, the Chief Justice, and the Attorney General before or
21 during ~~the third legislative day~~ of each regular session of the Legislature. The
22 modifications shall be introduced during that regular session and shall become effective
23 on October 1 following the legislative session in which the modifications were

1. SENTENCING STANDARDS

1 introduced, if approved by an act of the Legislature passed during the legislative session
2 in which the modifications were introduced."

3 Section 4. All laws or parts of laws which conflict with this act are repealed.

4 Section 5. This act shall become effective immediately following its passage and
5 approval by the Governor, or its otherwise becoming law.

2. JUVENILE AND YO RECORDS ACCESS

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SYNOPSIS: Under existing law, judges, prosecutors, probation and parole officers and court personnel are not granted statewide access to juvenile and youthful offender records. This bill would expressly provide that these persons shall be authorized to access juvenile and youthful offender records to obtain information necessary for the completion of sentencing standards worksheets.

A B I L L
T O B E E N T I T L E D
A N A C T

To amend Sections 12-15-100 and 15-19-7 of the Code of Alabama 1975 relating to juvenile and youthful offender records; to provided that juvenile and youthful records shall be made available to judges, prosecutors, victim service officers, probation and parole officers and court personnel in completing the worksheets required for the implementation of sentencing standards; and provide penalties for wrongful disclosure.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 12-15-100 and Section 15-19-7 of the Code of Alabama 1975, are

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amended to read as follows:

“§ 12-15-100

“(a) Social, medical, and psychiatric or psychological records, including reports of preliminary inquiries and predisposition studies, of delinquent, in need of supervision and dependent children, including supervision records of such children, shall be filed separate from other files and records of the court and shall be open to inspection and copying, only by the following:

(1) The judge and probation officers and professional staff assigned to serve the court.

(2) Representatives of a public or private agency or department providing supervision or having legal custody of the child.

(3) Any other person or agency that the juvenile court determines, after a hearing has a legitimate interest in the case or in the work of the court.

(4) The probation and other professional staff assigned to serve a criminal court, including the judge, prosecutor and the attorney for the defendant, for use in completing sentencing standards worksheets and considering the sentence to be imposed upon a ~~convicted~~ person charged with a criminal offense, or one adjudicated a youthful offender, ~~who, prior thereto, had been a party to the proceedings in court.~~

(5) The probation and other professional staff assigned to serve a criminal court when investigating or considering youthful offender applications.

(6) The parent of the child, except when parental rights have been terminated, or guardian and the counsel and the guardian ad litem of the child.

(7) The principal of the school in which the child is enrolled, or the representative of the principal, and other school officials as the principal deems necessary, upon written petition to the

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juvenile court setting forth the reasons why the safety or welfare, or both, of the school, its students, or personnel, necessitate production of the information and without which the safety and welfare of the school, its students, and personnel, would be threatened.

“(b) All or any part of the records enumerated in subsection (a) or information secured from the records, when presented to and used by the judge in court or otherwise in a proceeding under this chapter, shall also be made available to the parties to the proceedings and their counsel and representatives.

“(c) All other court records, including the docket, petitions, motions, and other papers filed with a case, transcripts of testimony, findings, verdicts, orders, and decrees shall be open to inspection by those persons and agencies designated in subsections (a) and (b).

“(d) Petitions, motions, court notices, or dispositions shall be open to inspection by the victim or the victim's representatives.

(e) The access to court records provided in subsections 4 and 5 shall not be limited to the jurisdiction of the inquiring judge or prosecutor, but shall be available statewide.

~~“(e)~~ (f) Whoever, except for the purposes permitted and in the manner provided by this section, discloses or makes use of or knowingly permits the use of information concerning a child before the court directly or indirectly derived from the records of the court or acquired in the course of official duties, upon conviction thereof, shall be guilty of a Class A misdemeanor within the jurisdiction of the juvenile court.”

Section 15-19-7 of the Code of Alabama 1975, is amended to read as follows:

“§ 15-19-7. Effect of determination; records not open to public inspection; exception.

“(a) No determination made under the provisions of this chapter shall disqualify any youth

2. JUVENILE AND YO RECORDS ACCESS

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for public office or public employment, operate as a forfeiture of any right or privilege or make him ineligible to receive any license granted by public authority, and such determination shall not be deemed a conviction of crime; provided, however, that if he is subsequently convicted of crime, the prior adjudication as youthful offender shall be considered.

“(b) The fingerprints and photographs and other records of a person adjudged a youthful offender shall not be open to public inspection; provided, however, that such records shall be made available to all judges, prosecutors, victim service officers, probation and parole officers, the attorney for the defendant and court personnel for the purpose of completing the worksheets required for sentencing standards and the court may, in its discretion, permit the inspection of papers or records by others. A wrongful disclosure of the records is a Class A misdemeanor.”

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part that remains.

Section 4. This act shall become effective immediately following its passage and approval by the Governor, or upon its otherwise becoming a law.

3. PARDON AND PAROLE FACILITY FEES

1 A BILL
2 TO BE ENTITLED
3 AN ACT

4 To amend Section 15-22-30 of the Code of Alabama 1975, providing for a
5 deduction from the adjusted gross income of persons residing in community residential
6 facilities for room and board; to provide for the deduction from the gross wage of each
7 person residing at a community residential facility operated by the State Board of
8 Pardons and Paroles; to provide for the distribution of the proceeds; and to provide for an
9 appropriation for fiscal years 2006 and 2007.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 15-22-30 of the Code of Alabama 1975, is amended to read as
12 follows:

13 §15-22-30.

14 "(a)(1) The Unless waived in whole or in part based on hardship as provided in
15 subdivision (4), the State Board of Pardons and Paroles is authorized to charge shall
16 deduct 45 percent from the gross wages of each parolee resident of person residing in a
17 community residential facility a monthly amount for room and board which shall not
18 exceed 25 percent of the adjusted gross monthly income of the parolee; provided, that
19 under operated by the board.

20 "(2) The proceeds from the 45 percent deduction shall be applied as follows:

3. PARDON AND PAROLE FACILITY FEES

1 "a. Twenty-five percent shall be applied to the costs incident to the supervision
2 and upkeep of the person.

3 "b. Ten percent shall be applied to payment of court costs, fines, court ordered
4 fees, and other assessments ordered resulting from the conviction until all of the forgoing
5 owed by the person have been paid.

6 "c. Ten percent shall be applied to the payment of any restitution until all of the
7 restitution owed by the person has been paid.

8 "d. Notwithstanding the foregoing, in the event either court ordered assessments
9 under subsection (a)(2)(b) or restitution under subsection (a)(2)(c) have been fully paid,
10 10 percent shall be applied to any remaining balance of court ordered assessments or
11 restitution due, until paid in full.

12 "(3) The remainder of the wages may be deposited in an account established for
13 the person by the board and used to pay for the care of dependents, savings, and spending
14 money of the person.

15 "(4) Under hardship circumstances such charge, all or any part of the costs
16 incident to supervision and upkeep in a community residential facility may be waived for
17 a parolee resident by the board for a person residing in a facility upon the written
18 recommendation by the director of the facility.

19 "(b) The proceeds from any charges collected under the provisions of this section
20 shall be paid into the State Treasury to the credit of the General Fund Probationer's

3. PARDON AND PAROLE FACILITY FEES

1 Upkeep Fund operated by the Board of Pardons and Paroles and shall be used exclusively
2 for funding the community residential facilities program of the State Board of Pardons
3 and Paroles and for payment of court ordered monies to be distributed by the board to the
4 appropriate circuit clerk for payment.

5 "(c) Fees collected pursuant to this act in the fiscal years ending on September 30,
6 2006, and ending on September 30, 2007, are hereby appropriated to the Board of
7 Pardons and Paroles and shall be in addition to all other appropriations to the board.

8 "(e) (d) The State Board of Pardons and Paroles is hereby authorized to may
9 promulgate and effect all rules and regulations necessary to implement the provisions of
10 this section."

11 Section 2. This act shall become effective on the first day of the third month
12 following its passage and approval by the Governor, or its otherwise becoming law.

4. BURGLARY 1ST AND 2ND AMENDMENT – LOOT RULE

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Synopsis: Under existing law, a person who knowingly and unlawfully enters or remains in a dwelling with the intent to commit a crime therein and is armed with a deadly weapon while either entering, in the dwelling or in immediate flight therefrom, is guilty of burglary in the first degree, a Class A felony. A person who enters or remains unlawfully in a building with intent to commit theft or a felony therein and is armed with a deadly weapon while either entering, in the dwelling or in immediate flight therefrom, is guilty of burglary in the second degree, a Class B felony.

This bill, with respect to the use of a dangerous instrument in the dwelling or in immediate flight therefrom, would require a person to use or threaten the immediate use of the deadly weapon to be guilty of the offense of burglary in the first degree and the second degree.

Amendment 621 of the Constitution of Alabama of 1901 prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within

4. BURGLARY 1ST AND 2ND AMENDMENT – LOOT RULE

1 one of a number of specified exceptions; it is approved by the affected entity;
2 or provides a local source of revenue, to the entity for the purpose.

3 The purpose or effect of this bill would be to require a new or increased
4 expenditure of local funds within the meaning of Amendment 621. However,
5 the bill does not require approval of a local governmental entity or enactment
6 by a 2/3 vote to become effective because it comes within one of the specified
7 exceptions contained in Amendment 621.

8 **A BILL**

9 **TO BE ENTITLED**

10 **AN ACT**

11 To amend Section 13A-7-5 and 13A-7-6, Code of Alabama 1975,
12 relating to the crime of burglary in the first degree and in the second
13 degree to provide that a defendant, or another participant in the crime, who
14 possesses a deadly weapon or dangerous instrument upon entry of a
15 dwelling or building, or uses, or threatens to use a deadly weapon or
16 dangerous instrument against another person in the commission of a
17 burglary or flight from the dwelling shall be guilty of these crimes; and in
18 connection therewith would have as its purpose or effect the requirement
19 of a new or increased expenditure of local funds within the meaning of
20 Amendment 621 of the Constitution of Alabama of 1901.

21 **BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:**

22 **Section 1.** Section 13A-7-5 and 13A-7-6, Code of Alabama 1975, are amended to
23 read as follows:

4. BURGLARY 1ST AND 2ND AMENDMENT – LOOT RULE

1 “§13A-7-5.

2 (a) A person commits the crime of burglary in the first degree if he knowingly and
3 unlawfully enters or remains unlawfully in a dwelling with intent to commit a
4 crime therein, and, if, in effecting entry or while in dwelling or in immediate
5 flight therefrom, he or another participant in the crime:

6 (1) Is armed with explosives ~~or a deadly weapon~~; or

7 (2) Causes physical injury to any person who is not a participant in the crime; or

8 (3) ~~Uses or threatens the immediate use of a dangerous instrument.~~ In effecting

9 entry, is armed with a deadly weapon or dangerous instrument or, while in the

10 dwelling or immediate flight from the dwelling, uses or threatens the immediate

11 use of a deadly weapon or dangerous instrument against another person. The use

12 of or threatened use of a deadly weapon or dangerous instrument does not include

13 the mere acquisition of a deadly weapon or dangerous instrument during the

14 burglary.

15 (b) Burglary in the first degree is a Class A felony.”

16 “Section 13A-7-6

17 (a) A person commits the crime of burglary in the second degree if he knowingly

18 enters or remains unlawfully in a building with intent to commit a theft or a

19 felony therein and, if in effecting entry or while in the building or in immediate

20 flight therefrom, he or another participant in the crime:

21 (1) Is armed with explosives ~~or a deadly weapon~~; or

22 (2) Causes physical injury to any person who is not a participant in the crime; or

4. BURGLARY 1ST AND 2ND AMENDMENT – LOOT RULE

1 (3) ~~Uses or threatens the immediate use of a dangerous instrument.~~ In effecting
2 entry, is armed with a deadly weapon or dangerous instrument or, while in the
3 building or immediate flight from the building, uses or threatens the immediate
4 use of a deadly weapon or dangerous instrument against another person. The use
5 of or threatened use of a deadly weapon or dangerous instrument does not include
6 the mere acquisition of a deadly weapon or dangerous instrument during the
7 burglary.

8 (b) In the alternative to subsection (a) of this section a person commits the crime
9 of burglary in the second degree if he unlawfully enters a lawfully occupied
10 dwelling-house with intent to commit a theft or a felony therein.

11 (c) Burglary in the second degree is a Class B felony.

12 **Section 2.** Although this bill would have as its purpose or effect the
13 requirement of a new or increased expenditure of local funds, the bill is excluded
14 from further requirements and application under Amendment 621 because the bill
15 defines a new crime or amends the definition of an existing crime.

16 **Section 3.** This act shall become effective on the first day of the third
17 month following its passage and approval by the Governor, or its otherwise
18 becoming law.

5. CORRECTION OF THEFT 2ND STATUTE

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Synopsis: Under a law enacted in 2003, the monetary amounts related to the three criminal offenses of theft of property were adjusted. Also in 2003, the crime of theft of property in the second degree required as an element in instances of prior offenses that the defendant had been previously convicted of theft of property in the first or second degree or receiving stolen property in the first or second degree.

In 2004, the references to certain types of livestock was changed in the offense of theft of property in the second degree. The 2004 act also reapplied the pre-2003 monetary amount for the crime of theft of property in the second degree, resulting in a lack of coverage for the criminal offense for a certain monetary range. The 2004 act also deleted the alternative element that the defendant had been previously convicted of receiving stolen property in the first or second degree.

This bill would amend the theft of property in the second degree law to restore the monetary amounts specified in 2003, resulting in total monetary coverage relating to the crime, and would restore the alternative element

5. CORRECTION OF THEFT 2ND STATUTE

1 concerning a defendant who had been previously convicted of receiving stolen
2 property in the first or second degree.

3 Amendment 621 of the Constitution of Alabama of 1901 prohibits a
4 general law whose purpose or effect would be to require a new or increased
5 expenditure of local funds from becoming effective with regard to a local
6 governmental entity without enactment by a 2/3 vote unless: it comes within one
7 of a number of specified exceptions; it is approved by the affected entity; or the
8 Legislature appropriates funds, or provides a local source of revenue, to the entity
9 for the purpose.

10 The purpose or effect of this bill would be to require a new or increased
11 expenditure of local funds within the meaning of Amendment 621. However, the
12 bill does not require approval of a local governmental entity or enactment by a 2/3
13 vote to become effective because it comes within one of the specified exceptions
14 contained in Amendment 621.

15 A BILL

16 TO BE ENTITLED

17 AN ACT

18 Relating to theft of property in the second degree; amending Section 13A-
19 8-4 of the Code of Alabama of 1975, as last amended by Act 2004-627, to adjust
20 the monetary range of the offense to conform with other theft of property offenses
21 and in instances of prior offenses to restore the alternative element concerning a
22 defendant who has been previously convicted of receiving stolen property in the
23 first or second degree; and in connection therewith would have as its purpose or

5. CORRECTION OF THEFT 2ND STATUTE

1 effect the requirement of a new or increased expenditure of local funds within the
2 meaning of Amendment 621 of the Constitution of Alabama of 1901.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 13A-8-4 of the Code of Alabama 1975, as last amended
5 by Act 2004-627, is amended to read as follows:

6 §13A-8-4.

7 "(a) The theft of property which exceeds ~~two hundred fifty dollars (\$250)~~
8 five hundred dollars (\$500) in value but does not exceed ~~one thousand dollars~~
9 ~~(\$1,000)~~ two thousand five hundred dollars (\$2,500) in value, and which is not
10 taken from the person of another, constitutes theft of property in the second
11 degree.

12 "(b) Theft of property in the second degree is a Class C felony.

13 "(c) The theft of a credit card or a debit card, regardless of its value,
14 constitutes theft of property in the second degree.

15 "(d) The theft of a firearm, rifle, or shotgun, regardless of its value,
16 constitutes theft of property in the second degree.

17 "(e) The theft of any substance controlled by Chapter 2 of Title 20 or any
18 amendments thereto, regardless of value, constitutes theft of property in the
19 second degree.

5. CORRECTION OF THEFT 2ND STATUTE

1 (f) The theft of any livestock which includes cattle, swine, equine or
2 equidae, or sheep, regardless of their value, constitutes theft of property in the
3 second degree.

4 (g) Notwithstanding subsection (a), the theft of property which exceeds
5 ~~one hundred dollars (\$100)~~ two hundred fifty dollars (\$250) in value but does not
6 exceed ~~one thousand dollars (\$1,000)~~ two thousand five hundred dollars (\$2,500)
7 in value, and which is not taken from the person of another, where the defendant
8 has previously been convicted of a theft of property in the first or second degree
9 or receiving stolen property in the first or second degree, constitutes theft of
10 property in the second degree."

11 Section 2. Although this bill would have as its purpose or effect the
12 requirement of a new or increased expenditure of local funds, the bill is excluded
13 from further requirements and application under Amendment 621 because the bill
14 defines a new crime or amends the definition of an existing crime.

15 Section 3. This act shall become effective immediately following its
16 passage and approval by the Governor, or its otherwise becoming law.

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

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5 **Synopsis:** Existing law provides that prior convictions for driving under the
6 influence could be considered for enhancement of the sentence of a person
7 who is convicted of driving under the influence, however, the appellate
8 courts of this state have ruled that only prior convictions rendered by
9 Alabama courts could be considered.

10 This bill would provide that a prior conviction for driving under
11 the influence of alcohol or drugs from this state, a municipality within this
12 state, or another state or territory or a municipality of another state or
13 territory would be considered by a court for enhancement of the sentence
14 of a person who is convicted of driving under the influence.

15 Amendment 621 of the Constitution of Alabama of 1901 prohibits
16 a general law whose purpose or effect would be to require a new or
17 increased expenditure of local funds from becoming effective with regard
18 to a local governmental entity without enactment by a 2/3 vote unless: it
19 comes within one of a number of specified exceptions; it is approved by
20 the affected entity; or the Legislature appropriates funds, or provides a
21 local source of revenue, to the entity for the purpose.

22 The purpose or effect of this bill would be to require a new or
23 increased expenditure of local funds within the meaning of Amendment

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

1 621. However, the bill does not require approval of a local governmental
2 entity or enactment by a 2/3 vote to become effective because it comes
3 within one of the specified exceptions contained in Amendment 621.

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A BILL

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TO BE ENTITLED

7

AN ACT

8

To amend Section 32-5A-191, Code of Alabama 1975, relating to driving while
9 under the influence of alcohol or a controlled substance; to provide that a prior conviction
10 for driving under the influence of alcohol or drugs from this state, a municipality within
11 this state, or another state or territory or a municipality of another state or territory could
12 be considered by a court for enhancement of the sentence of a person who is convicted
13 for driving under the influence; and in connection therewith would have as its purpose or
14 effect the requirement of a new or increased expenditure of local funds within the
15 meaning of Amendment 621 of the Constitution of Alabama of 1901.

16

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17

Section 1. Section 32-5A-191, Code of Alabama 1975, is amended to read as
18 follows:

19

§32-5A-191.

20

"(a) A person shall not drive or be in actual physical control of any vehicle while:

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

1 "(1) There is 0.08 percent or more by weight of alcohol in his or her blood;

2 "(2) Under the influence of alcohol;

3 "(3) Under the influence of a controlled substance to a degree which renders him
4 or her incapable of safely driving;

5 "(4) Under the combined influence of alcohol and a controlled substance to a
6 degree which renders him or her incapable of safely driving; or

7 "(5) Under the influence of any substance which impairs the mental or physical
8 faculties of such person to a degree which renders him or her incapable of safely driving.

9 "(b) A person who is under the age of 21 years shall not drive or be in actual
10 physical control of any vehicle if there is .02 percentage or more by weight of alcohol in
11 his or her blood. The Department of Public Safety shall suspend or revoke the driver's
12 license of any person, including, but not limited to, a juvenile, child, or youthful offender,
13 convicted or adjudicated of, or subjected to a finding of delinquency based on this
14 subsection. Notwithstanding the foregoing, upon the first violation of this subsection by a
15 person whose blood alcohol level is between .02 and .08, the person's driver's license or
16 driving privilege shall be suspended for a period of 30 days in lieu of any penalties
17 provided in subsection (e) of this section and there shall be no disclosure, other than to
18 courts, law enforcement agencies, and the person's employer, by any entity or person of
19 any information, documents, or records relating to the person's arrest, conviction, or
20 adjudication of or finding of delinquency based on this subsection.

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

1 "All persons, except as otherwise provided in this subsection for a first offense,
2 including, but not limited to, a juvenile, child, or youthful offender, convicted or
3 adjudicated of, or subjected to a finding of delinquency based on this subsection shall be
4 fined pursuant to this section, notwithstanding any other law to the contrary, and the
5 person shall also be required to attend and complete a DUI or substance abuse court
6 referral program in accordance with subsection (i).

7 "(c) A school bus or day care driver shall not drive or be in actual physical control
8 of any vehicle while in performance of his or her duties if there is greater than .02
9 percentage by weight of alcohol in his or her blood. A person convicted pursuant to this
10 subsection shall be subject to the penalties provided by this section except that on the first
11 conviction the Director of Public Safety shall suspend the driving privilege or driver's
12 license for a period of one year.

13 "(d) The fact that any person charged with violating this section is or has been
14 legally entitled to use alcohol or a controlled substance shall not constitute a defense
15 against any charge of violating this section.

16 "(e) Upon first conviction, a person violating this section shall be punished by
17 imprisonment in the county or municipal jail for not more than one year, or by fine of not
18 less than six hundred dollars (\$600) nor more than two thousand one hundred dollars
19 (\$2,100), or by both a fine and imprisonment. In addition, on a first conviction, the
20 Director of Public Safety shall suspend the driving privilege or driver's license of the
21 person convicted for a period of 90 days.

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

1 "(f) On a second conviction within a five-year period, a person convicted of
2 violating this section shall be punished by a fine of not less than one thousand one
3 hundred dollars (\$1,100) nor more than five thousand one hundred dollars (\$5,100) and
4 by imprisonment, which may include hard labor in the county or municipal jail for not
5 more than one year. The sentence shall include a mandatory sentence, which is not
6 subject to suspension or probation, of imprisonment in the county or municipal jail for
7 not less than five days or community service for not less than 30 days. In addition the
8 Director of Public Safety shall revoke the driving privileges or driver's license of the
9 person convicted for a period of one year.

10 "(g) On a third conviction, a person convicted of violating this section shall be
11 punished by a fine of not less than two thousand one hundred dollars (\$2,100) nor more
12 than ten thousand one hundred dollars (\$10,100) and by imprisonment, which may
13 include hard labor, in the county or municipal jail for not less than 60 days nor more than
14 one year, to include a minimum of 60 days which shall be served in the county or
15 municipal jail and cannot be probated or suspended. In addition, the Director of Public
16 Safety shall revoke the driving privilege or driver's license of the person convicted for a
17 period of three years.

18 "(h) On a fourth or subsequent conviction, a person convicted of violating this
19 section shall be guilty of a Class C felony and punished by a fine of not less than four
20 thousand one hundred dollars (\$4,100) nor more than ten thousand one hundred dollars
21 (\$10,100) and by imprisonment of not less than one year and one day nor more than 10
22 years. Any term of imprisonment may include hard labor for the county or state, and

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

1 where imprisonment does not exceed three years confinement may be in the county jail.
2 Where imprisonment does not exceed one year and one day, confinement shall be in the
3 county jail. The minimum sentence shall include a term of imprisonment for at least one
4 year and one day, provided, however, that there shall be a minimum mandatory sentence
5 of 10 days which shall be served in the county jail. The remainder of the sentence may be
6 suspended or probated, but only if as a condition of probation the defendant enrolls and
7 successfully completes a state certified chemical dependency program recommended by
8 the court referral officer and approved by the sentencing court. Where probation is
9 granted, the sentencing court may, in its discretion, and where monitoring equipment is
10 available, place the defendant on house arrest under electronic surveillance during the
11 probationary term. In addition to the other penalties authorized, the Director of Public
12 Safety shall revoke the driving privilege or driver's license of the person convicted for a
13 period of five years.

14 ~~"Any law to the contrary notwithstanding, the~~ The Alabama habitual felony
15 offender law shall not apply to a conviction of a felony pursuant to this subsection, and a
16 conviction of a felony pursuant to this subsection shall not be a felony conviction for
17 purposes of the enhancement of punishment pursuant to Alabama's habitual felony
18 offender law.

19 "(i) In addition to the penalties provided herein, any person convicted of violating
20 this section shall be referred to the court referral officer for evaluation and referral to
21 appropriate community resources. The defendant shall, at a minimum, be required to
22 complete a DUI or substance abuse court referral program approved by the

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

1 Administrative Office of Courts and operated in accordance with provisions of the
2 Mandatory Treatment Act of 1990, Sections 12-23-1 to 12-23-19, inclusive. The
3 Department of Public Safety shall not reissue a driver's license to a person convicted
4 under this section without receiving proof that the defendant has successfully completed
5 the required program.

6 "(j) Neither reckless driving nor any other traffic infraction is a lesser included
7 offense under a charge of driving under the influence of alcohol or of a controlled
8 substance.

9 "(k) Except for fines collected for violations of this section charged pursuant to a
10 municipal ordinance, fines collected for violations of this section shall be deposited to the
11 State General Fund; however, beginning October 1, 1995, of any amount collected over
12 two hundred fifty dollars (\$250) for a first conviction, over five hundred dollars (\$500)
13 for a second conviction within five years, over one thousand dollars (\$1,000) for a third
14 conviction within five years, and over two thousand dollars (\$2,000) for a fourth or
15 subsequent conviction within five years, the first one hundred dollars (\$100) of that
16 additional amount shall be deposited to the Alabama Chemical Testing Training and
17 Equipment Trust Fund, after three percent of the one hundred dollars (\$100) is deducted
18 for administrative costs, and beginning October 1, 1997, and thereafter, the second one
19 hundred dollars (\$100) of that additional amount shall be deposited in the Impaired
20 Drivers Trust Fund after deducting five percent of the one hundred dollars (\$100) for
21 administrative costs and the remainder of the funds shall be deposited to the State
22 General Fund. Fines collected for violations of this section charged pursuant to a

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

1 municipal ordinance where the total fine is paid at one time shall be deposited as follows:
2 The first three hundred fifty dollars (\$350) collected for a first conviction, the first six
3 hundred dollars (\$600) collected for a second conviction within five years, the first one
4 thousand one hundred dollars (\$1,100) collected for a third conviction, and the first two
5 thousand one hundred dollars (\$2,100) collected for a fourth or subsequent conviction
6 shall be deposited to the State Treasury with the first one hundred dollars (\$100)
7 collected for each conviction credited to the Alabama Chemical Testing Training and
8 Equipment Trust Fund and the second one hundred dollars (\$100) to the Impaired Drivers
9 Trust Fund after deducting five percent of the one hundred dollars (\$100) for
10 administrative costs and depositing this amount in the general fund of the municipality,
11 and the balance credited to the State General Fund. Any amounts collected over these
12 amounts shall be deposited as otherwise provided by law. Fines collected for violations of
13 this section charged pursuant to a municipal ordinance, where the fine is paid on a partial
14 or installment basis, shall be deposited as follows: The first two hundred dollars (\$200) of
15 the fine collected for any conviction shall be deposited to the State Treasury with the first
16 one hundred dollars (\$100) collected for any conviction credited to the Alabama
17 Chemical Testing Training and Equipment Trust Fund and the second one hundred
18 dollars (\$100) for any conviction credited to the Impaired Drivers Trust Fund after
19 deducting five percent of the one hundred dollars (\$100) for administrative costs and
20 depositing this amount in the general fund of the municipality. The second three hundred
21 dollars (\$300) of the fine collected for a first conviction, the second eight hundred dollars
22 (\$800) collected for a second conviction, the second one thousand eight hundred dollars
23 (\$1,800) collected for a third conviction, and the second three thousand eight hundred

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

1 dollars (\$3,800) collected for a fourth conviction shall be divided with 50 percent of the
2 funds collected to be deposited to the State Treasury to be credited to the State General
3 Fund and 50 percent deposited as otherwise provided by law for municipal ordinance
4 violations. Any amounts collected over these amounts shall be deposited as otherwise
5 provided by law for municipal ordinance violations. Notwithstanding any provision of
6 law to the contrary, 90 percent of any fine assessed and collected for any DUI offense
7 charged by municipal ordinance violation in district or circuit court shall be computed
8 only on the amount assessed over the minimum fine authorized, and upon collection shall
9 be distributed to the municipal general fund with the remaining 10 percent distributed to
10 the State General Fund.

11 "(l) A person who has been arrested for violating this section shall not be released
12 from jail under bond or otherwise, until there is less than the same percent by weight of
13 alcohol in his or her blood as specified in subsection (a)(1) or, in the case of a person who
14 is under the age of 21 years, subsection (b) hereof.

15 "(m) Upon verification that a defendant arrested pursuant to this section is
16 currently on probation from another court of this state as a result of a conviction for any
17 criminal offense, the prosecutor shall provide written or oral notification of the
18 defendant's subsequent arrest and pending prosecution to the court in which the prior
19 conviction occurred.

20 "(n) When any person over the age of 21 years is convicted pursuant to this
21 section and a child under the age of 14 years was present in the vehicle at the time of the

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

1 offense, the defendant shall be sentenced to double the minimum punishment that the
2 person would have received if the child had not been present in the motor vehicle.

3 "(o) A prior conviction for driving under the influence of alcohol or drugs from
4 this state, a municipality within this state, or another state or territory or a municipality of
5 another state or territory shall be considered by a court for imposing a sentence pursuant
6 to this section.

7 ~~"(o)~~ (p) Any person convicted of driving under the influence of alcohol, or a
8 controlled substance, or both, or any substance which impairs the mental or physical
9 faculties in violation of this section, a municipal ordinance adopting this section, or a
10 similar law from another state or territory or a municipality of another state or territory
11 more than once in a five-year period shall have his or her motor vehicle registration for
12 all vehicles owned by the repeat offender suspended by the Alabama Department of
13 Revenue for the duration of the offender's driver's license suspension period, unless such
14 action would impose an undue hardship to any individual, not including the repeat
15 offender, who is completely dependent on the motor vehicle for the necessities of life,
16 including any family member of the repeat offender and any co-owner of the vehicle."

17 Section 2. Although this bill would have as its purpose or effect the requirement
18 of a new or increased expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621 because the bill defines a new crime
20 or amends the definition of an existing crime.

6. DUI – USE OF PRIOR OUT-OF-STATE CONVICTIONS

- 1 Section 3. This act shall become effective on the first day of the third month
- 2 following its passage and approval by the Governor, or its otherwise becoming law.

7. MAXIMUM AUTHORIZED FINE INCREASE

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Synopsis: Under existing law, the schedule of maximum fines for felonies, misdemeanors, and violations, according to classifications established when the Alabama Criminal Code was adopted, is as follows: Class C felony, \$5,000; Class B felony, \$10,000; Class A felony, \$20,000; Class C misdemeanor, \$500; Class B misdemeanor, \$1,000; Class A misdemeanor, \$2,000; and a violation, \$200.

This bill increases the maximum fine that a court is authorized to assess upon conviction for a felony, misdemeanor, or violation as follows: Class C felony, \$15,000; Class B felony, \$30,000; Class A felony, \$60,000; Class C misdemeanor, \$1,500; Class B misdemeanor, \$3,000; Class A misdemeanor, \$6,000; and a violation, \$600.

A BILL
TO BE ENTITLED
AN ACT

7. MAXIMUM AUTHORIZED FINE INCREASE

1 To amend Sections 13A-5-11 and 13A-5-12 of the Code of Alabama 1975, to
2 increase the maximum amount of fines authorized to be assessed upon conviction for a
3 felony, misdemeanor, or violation.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 13A-5-11 and 13A-5-12 of the Code of Alabama 1975, are
6 amended to read as follows:

7 §13A-5-11.

8 "(a) A sentence to pay a fine for a felony shall be for a definite amount, fixed by
9 the court, within the following limitations:

10 "(1) For a Class A felony, not more than ~~\$20,000.00~~ \$60,000;

11 "(2) For a Class B felony, not more than ~~\$10,000.00~~ \$30,000;

12 "(3) For a Class C felony, not more than ~~\$5,000.00~~ \$15,000; or

13 "(4) Any amount not exceeding double the pecuniary gain to the defendant or loss
14 to the victim caused by the commission of the offense.

15 "(b) As used in this section, "gain" means the amount of money or the value of
16 property derived from the commission of the crime, less the amount of money or the
17 value of property returned to the victim of the crime or seized or surrendered to lawful
18 authority prior to the time sentence is imposed. "Value" shall be determined by the
19 standards established in subdivision (14) of Section 13A-8-1.

7. MAXIMUM AUTHORIZED FINE INCREASE

1 "(c) The court may conduct a hearing upon the issue of defendant's gain or the
2 victim's loss from the crime according to procedures established by rule of court.

3 "(d) This section shall not apply if a higher fine is otherwise authorized by law for
4 a specific crime.

5 §13A-5-12.

6 "(a) A sentence to pay a fine for a misdemeanor shall be for a definite amount,
7 fixed by the court, within the following limitations:

8 "(1) For a Class A misdemeanor, not more than ~~\$2,000.00~~ \$6,000;

9 "(2) For a Class B misdemeanor, not more than ~~\$1,000.00~~ \$3,000;

10 "(3) For a Class C misdemeanor, not more than ~~\$500.00~~ \$1,500; or

11 "(4) Any amount not exceeding double the pecuniary gain to the defendant or loss
12 to the victim caused by the commission of the offense.

13 "(b) A sentence to pay a fine for a violation shall be for a definite amount, fixed
14 by the court, not to exceed ~~\$200.00~~, six hundred dollars (\$600), or any amount not
15 exceeding double the pecuniary gain to the defendant or loss to the victim caused by the
16 commission of the offense.

17 "(c) As used in this section, "gain" means the amount of money or the value of
18 property derived from the commission of the crime, less the amount of money or the
19 value of property returned to the victim of the crime or seized or surrendered to lawful

7. MAXIMUM AUTHORIZED FINE INCREASE

1 authority prior to the time sentence is imposed. "Value" shall be determined by the
2 standards established in subdivision (14) of Section 13A-8-1.

3 "(d) The court may conduct a hearing upon the issue of defendant's gain or the
4 victim's loss from the crime according to procedures established by rule of court."

5 Section 2. This act shall become effective on the first day of the third month
6 following its passage and approval by the Governor, or its otherwise becoming law.

8. AMENDMENT OF TRAFFICKING STATUTE

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SYNOPSIS: Under existing law, a person convicted of the most serious offense for trafficking in illegal drugs and sentenced to life imprisonment without parole, is not subject to a fine.

This bill would require a person convicted of the most serious offense for trafficking in illegal drugs and sentenced to life imprisonment without parole to pay a fine as specified. Under existing law, a person convicted of possession of over 4,000, but less than 10,000 capsules or pills of hydromorphone is subject to a fine of \$100,000.

This bill would increase the fine for a person convicted of possessing that amount of hydromorphone to \$250,000.

This bill amends Alabama’s drug trafficking statute to include the drugs, 3,4 methylenedioxy methamphetamine and 5-methoxy-3, 4 methylenedioxy methamphetamine.

Amendment 621 of the Constitution of Alabama of 1901 prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard

8. AMENDMENT OF TRAFFICKING STATUTE

1 to a local governmental entity without enactment by a 2/3 vote unless: it
2 comes within one of a number of specified exceptions; it is approved by
3 the affected entity; or the Legislature appropriates funds, or provides a
4 local source of revenue, to the entity for the purpose.

5 The purpose or effect of this bill would be to require a new or
6 increased expenditure of local funds within the meaning of Amendment
7 621. However, the bill does not require approval of a local
8 governmental entity or enactment by a 2/3 vote to become effective
9 because it comes within one of the specified exceptions contained in
10 Amendment 621.

11 A BILL

12 TO BE ENTITLED

13 AN ACT

14
15 To amend Section 13A-12-231, Code of Alabama 1975, relating to
16 trafficking in illegal drugs; to require a person convicted of trafficking in
17 illegal drugs and sentenced to life imprisonment without parole to pay a
18 fine; to increase the fine for a person convicted of possessing a certain
19 amount of hydromorphone; to include the drugs, 3,4 methylenedioxy
20 methamphetamine and 5-methoxy-3, 4 methylenedioxy
21 methamphetamine, and in connection therewith would have as its purpose
22 or effect the requirement of a new or increased expenditure of local funds

8. AMENDMENT OF TRAFFICKING STATUTE

1 within the meaning of Amendment 621 of the Constitution of Alabama of
2 1901.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Section 13A-12-231, Code of Alabama 1975, is amended to
5 read as follows:

6 "§13A-12-231.

7 "Except as authorized in Chapter 2, Title 20:

8 "(1) Any person who knowingly sells, manufactures, delivers, or
9 brings into this state, or who is knowingly in actual or constructive
10 possession of, in excess of one kilo or 2.2 pounds of any part of the plant
11 of the genus Cannabis, whether growing or not, the seeds thereof, the resin
12 extracted from any part of the plant, and every compound, manufacture,
13 salt, derivative, mixture, or preparation of the plant, its seeds, or resin
14 including the completely defoliated mature stalks of the plant, fiber
15 produced from the stalks, oil, or cake, or the completely sterilized samples
16 of seeds of the plant which are incapable of germination is guilty of a
17 felony, which felony shall be known as "trafficking in cannabis." Nothing
18 in this subdivision shall apply to samples of tetrahydrocannabinols
19 including, but not limited to, all synthetic or naturally produced samples of
20 tetrahydrocannabinols which contain more than 15 percent by weight of
21 tetrahydrocannabinols and which do not contain plant material exhibiting
22 the external morphological features of the plant cannabis. If the quantity of
23 cannabis involved:

8. AMENDMENT OF TRAFFICKING STATUTE

1 "a. Is in excess of one kilo or 2.2 pounds, but less than 100 pounds,
2 the person shall be sentenced to a mandatory minimum term of
3 imprisonment of three calendar years and to pay a fine of twenty-five
4 thousand dollars (\$25,000).

5 "b. Is 100 pounds or more, but less than 500 pounds, the person
6 shall be sentenced to a mandatory minimum term of imprisonment of five
7 calendar years and to pay a fine of fifty thousand dollars (\$50,000).

8 "c. Is 500 pounds or more, but less than 1,000 pounds, the person
9 shall be sentenced to a mandatory minimum term of imprisonment of 15
10 calendar years and to pay a fine of two hundred thousand dollars
11 (\$200,000).

12 "d. Is 1,000 pounds or more, the person shall be sentenced to a
13 mandatory term of imprisonment of life without parole and to pay a fine of
14 two hundred fifty thousand dollars (\$250,000).

15 "(2) Any person who knowingly sells, manufactures, delivers, or
16 brings into this state, or who is knowingly in actual or constructive
17 possession of, 28 grams or more of cocaine or of any mixture containing
18 cocaine, described in Section 20-2-25(1), is guilty of a felony, which
19 felony shall be known as "trafficking in cocaine." If the quantity involved:

20 "a. Is 28 grams or more, but less than 500 grams, the person shall
21 be sentenced to a mandatory minimum term of imprisonment of three
22 calendar years and to pay a fine of fifty thousand dollars (\$50,000).

8. AMENDMENT OF TRAFFICKING STATUTE

1 "b. Is 500 grams or more, but less than one kilo, the person shall be
2 sentenced to a mandatory minimum term of imprisonment of five
3 calendar years and to pay a fine of one hundred thousand dollars
4 (\$100,000).

5 "c. Is one kilo, but less than 10 kilos, then the person shall be
6 sentenced to a mandatory minimum term of imprisonment of 15 calendar
7 years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

8 "d. Is 10 kilos or more, the person shall be sentenced to a
9 mandatory term of imprisonment of life without parole and to pay a fine of
10 three hundred thousand dollars (\$300,000).

11 "(3) Any person who knowingly sells, manufactures, delivers, or
12 brings into this state, or who is knowingly in actual or constructive
13 possession of, four grams or more of any morphine, opium, or any salt,
14 isomer, or salt of an isomer thereof, including heroin, as described in
15 Section 20-2-23(2) or Section 20-2-25(1)a., or four grams or more of any
16 mixture containing any such substance, is guilty of a felony, which felony
17 shall be known as "trafficking in illegal drugs." If the quantity involved:

18 "a. Is four grams or more, but less than 14 grams, the person shall
19 be sentenced to a mandatory minimum term of imprisonment of three
20 calendar years and to pay a fine of fifty thousand dollars (\$50,000).

21 "b. Is 14 grams or more, but less than 28 grams, the person shall be
22 sentenced to a mandatory minimum term of imprisonment of 10 calendar
23 years and to pay a fine of one hundred thousand dollars (\$100,000).

8. AMENDMENT OF TRAFFICKING STATUTE

1 "c. Is 28 grams or more, but less than 56 grams, the person shall be
2 sentenced to a mandatory minimum term of imprisonment of 25 calendar
3 years and to pay a fine of five hundred thousand dollars (\$500,000).

4 "d. Is 56 grams or more, the person shall be sentenced to a
5 mandatory term of imprisonment of life without parole and to pay a fine of
6 six hundred thousand dollars (\$600,000).

7 "(4) Any person who knowingly sells, manufactures, delivers, or
8 brings into this state, or who is knowingly in actual or constructive
9 possession of 1,000 or more pills or capsules of methaqualone, as
10 described in Section 20-2-1, et seq., is guilty of a felony, which felony
11 shall be known as "trafficking in illegal drugs." If the quantity involved:

12 "a. Is 1,000 pills or capsules, but less than 5,000 pills or capsules,
13 the person shall be sentenced to a mandatory minimum term of
14 imprisonment of three calendar years and pay a fine of fifty thousand
15 dollars (\$50,000).

16 "b. Is 5,000 capsules or more, but less than 25,000
17 capsules, that person shall be imprisoned to a mandatory minimum term of
18 imprisonment of 10 calendar years and pay a fine of one hundred thousand
19 dollars (\$100,000).

20 "c. Is 25,000 pills or more, but less than 100,000
21 pills or capsules, the person shall be sentenced to a mandatory minimum
22 term of imprisonment of 25 calendar years and pay a fine of five hundred
23 thousand dollars (\$500,000).

8. AMENDMENT OF TRAFFICKING STATUTE

1 "d. Is 100,000 capsules or more, the person shall be sentenced to a
2 mandatory term of imprisonment of life without parole and to pay a fine of
3 six hundred thousand dollars (\$600,000).

4 "(5) Any person who knowingly sells, manufactures, delivers or
5 brings into this state, or who is knowingly in actual or constructive
6 possession of 500 or more pills or capsules of hydromorphone as is
7 described in Section 20-2-1, et seq., is guilty of a felony which shall be
8 known as "trafficking in illegal drugs." If the quantity involved:

9 "a. Is 500 pills or capsules or more but less than 1,000 pills or
10 capsules, the person shall be sentenced to a mandatory term of
11 imprisonment of three calendar years and to pay a fine of fifty thousand
12 dollars (\$50,000).

13 "b. Is 1,000 pills or capsules or more, but less than 4,000 pills or
14 capsules, the person shall be sentenced to a mandatory term of
15 imprisonment of 10 calendar years and to pay a fine of one hundred
16 thousand dollars (\$100,000).

17 "c. Is 4,000 pills or capsules or more but less than 10,000 pills or
18 capsules, the person shall be sentenced to a mandatory term of
19 imprisonment of 25 calendar years and to pay a fine of ~~one hundred~~
20 ~~thousand dollars (\$100,000)~~ two hundred fifty thousand dollars
21 (\$250,000).

8. AMENDMENT OF TRAFFICKING STATUTE

1 "d. Is more than 10,000 pills or capsules, the person shall be
2 sentenced to a mandatory term of life in prison without parole and to pay a
3 fine of five hundred thousand dollars (\$500,000).

4 "(6) Any person who knowingly sells, manufactures, delivers, or
5 brings into this state, or who is knowingly in actual or constructive
6 possession of, 28 grams or more of 3,4-methylenedioxy amphetamine, 3,4
7 methylenedioxy methamphetamine or of any mixture containing 3,4-
8 methylenedioxy amphetamine or 3,4 methylenedioxy methamphetamine,
9 is guilty of a felony, which felony shall be known as "trafficking in illegal
10 drugs." If the quantity involved:

11 "a. Is 28 grams or more, but less than 500 grams, the person shall
12 be sentenced to a mandatory minimum term of imprisonment of three
13 calendar years and to pay a fine of fifty thousand dollars (\$50,000).

14 "b. Is 500 grams or more, but less than one kilo, the person shall be
15 sentenced to a mandatory minimum term of imprisonment of five calendar
16 years and to pay a fine of one hundred thousand dollars (\$100,000).

17 "c. Is one kilo, but less than 10 kilos, then the person shall be
18 sentenced to a mandatory minimum term of imprisonment of 15 calendar
19 years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

20 "d. Is 10 kilos or more, the person shall be sentenced to a
21 mandatory term of imprisonment of life without parole and to pay a fine of
22 five hundred thousand dollars (\$500,000).

8. AMENDMENT OF TRAFFICKING STATUTE

1 "(7) Any person who knowingly sells, manufactures, delivers, or
2 brings into this state, or who is knowingly in actual or constructive
3 possession of, 28 grams or more of 5-methoxy-3, 4-methylenedioxy
4 amphetamine or 5-methoxy-3, 4 methylenedioxy methamphetamine or
5 of any mixture containing 5-methoxy-3, 4-methylenedioxy amphetamine
6 or 5-methoxy-3, 4 methylenedioxy methamphetamine is guilty of a
7 felony, which felony shall be known as "trafficking in illegal drugs" if the
8 quantity involved:

9 "a. Is 28 grams or more, but less than 500 grams, the person shall
10 be sentenced to a mandatory minimum term of imprisonment of three
11 calendar years and to pay a fine of fifty thousand dollars (\$50,000).

12 "b. Is 500 grams or more, but less than one kilo, the person shall be
13 sentenced to a mandatory minimum term of imprisonment of five calendar
14 years and to pay a fine of one hundred thousand dollars (\$100,000).

15 "c. Is one kilo, but less than 10 kilos, then the person shall be
16 sentenced to a mandatory minimum term of imprisonment of 15 calendar
17 years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

18 "d. Is 10 kilos or more, the person shall be sentenced to a
19 mandatory term of imprisonment of life without parole and to pay a fine
20 of five hundred thousand dollars (\$500,000).

21 "(8) Any person who knowingly sells, manufactures, delivers, or
22 brings into this state, or who is knowingly in actual or constructive
23 possession of, four grams or more of phencyclidine, or any mixture

8. AMENDMENT OF TRAFFICKING STATUTE

1 containing phencyclidine, is guilty of a felony, which felony shall be
2 known as "trafficking in illegal drugs." If the quantity involved:

3 "a. Is four grams or more, but less than 14 grams, the person shall
4 be sentenced to a mandatory minimum term of imprisonment of three
5 calendar years and to pay a fine of fifty thousand dollars (\$50,000).

6 "b. Is 14 grams or more, but less than 28 grams, the person shall be
7 sentenced to a mandatory minimum term of imprisonment of five calendar
8 years and to pay a fine of one hundred thousand dollars (\$100,000).

9 "c. Is 28 grams or more, but less than 56 grams, then the person
10 shall be sentenced to a mandatory minimum term of imprisonment of 15
11 calendar years and to pay a fine of two hundred fifty thousand dollars
12 (\$250,000).

13 "d. Is 56 grams or more, the person shall be sentenced to a
14 mandatory term of imprisonment of life without parole and to pay a fine of
15 five hundred thousand dollars (\$500,000).

16 "(9) Any person who knowingly sells, manufactures, delivers, or
17 brings into this state, or who is knowingly in actual or constructive
18 possession of, four grams or more of lysergic acid diethylamide, of four
19 grams or more of any mixture containing lysergic acid diethylamide, is
20 guilty of a felony, which felony shall be known as "trafficking in illegal
21 drugs." If the quantity involved:

8. AMENDMENT OF TRAFFICKING STATUTE

1 "a. Is four grams or more, but less than 14 grams, the person shall
2 be sentenced to a mandatory minimum term of imprisonment of three
3 calendar years and to pay a fine of fifty thousand dollars (\$50,000).

4 "b. Is 14 grams or more, but less than 28 grams, the person shall be
5 sentenced to a mandatory minimum term of imprisonment of 10 calendar
6 years and to pay a fine of one hundred thousand dollars (\$100,000).

7 "c. Is 28 grams or more, but less than 56 grams, the person shall be
8 sentenced to a mandatory minimum term of imprisonment of 25 calendar
9 years and to pay a fine of five hundred thousand dollars (\$500,000).

10 "d. Is 56 grams or more, the person shall be sentenced to a
11 mandatory term of imprisonment of life without parole and to pay a fine
12 of six hundred thousand dollars (\$600,000).

13 "(10) Any person who knowingly sells, manufactures, delivers or
14 brings into this state, or who is knowingly in actual or constructive
15 possession of, 28 grams or more of amphetamine or any mixture
16 containing amphetamine, its salt, optical isomer, or salt of its optical
17 isomer thereof, is guilty of a felony, which felony shall be known as
18 "trafficking in amphetamine." If the quantity involved:

19 "a. Is 28 grams or more but less than 500 grams, the person shall
20 be sentenced to a mandatory minimum term of imprisonment of three
21 calendar years and to pay a fine of fifty thousand dollars (\$50,000).

8. AMENDMENT OF TRAFFICKING STATUTE

1 "b. Is 500 grams or more, but less than one kilo, the person shall be
2 sentenced to a mandatory minimum term of imprisonment of five calendar
3 years and to pay a fine of one hundred thousand dollars (\$100,000).

4 "c. Is one kilo but less than 10 kilos, then the person shall be
5 sentenced to a mandatory minimum term of imprisonment of 15 calendar
6 years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

7 "d. Is 10 kilos or more, the person shall be sentenced to a
8 mandatory term of imprisonment of life without parole and to pay a fine of
9 five hundred thousand dollars (\$500,000).

10 "(11) Any person who knowingly sells, manufactures, delivers, or
11 brings into this state, or who is knowingly in actual or constructive
12 possession of, 28 grams or more of methamphetamine or any mixture
13 containing methamphetamine, its salts, optical isomers, or salt of its
14 optical isomers thereof, is guilty of a felony, which felony shall be known
15 as "trafficking in methamphetamine." If the quantity involved:

16 "a. Is 28 grams or more but less than 500 grams, the person shall
17 be sentenced to a mandatory minimum term of imprisonment of three
18 calendar years and to pay a fine of fifty thousand dollars (\$50,000).

19 "b. Is 500 grams or more, but less than one kilo, the person shall be
20 sentenced to a mandatory minimum term of imprisonment of five calendar
21 years and to pay a fine of one hundred thousand dollars (\$100,000).

8. AMENDMENT OF TRAFFICKING STATUTE

1 "c. Is one kilo but less than 10 kilos, then the person shall be
2 sentenced to a mandatory minimum term of imprisonment of 15 calendar
3 years and to pay a fine of two hundred fifty thousand dollars (\$250,000).

4 "d. Is 10 kilos or more, the person shall be sentenced to a
5 mandatory term of imprisonment of life without parole and to pay a fine of
6 five hundred thousand dollars (\$500,000).

7 "(12) The felonies of "trafficking in cannabis," "trafficking in
8 cocaine," "trafficking in illegal drugs," "trafficking in amphetamine," and
9 "trafficking in methamphetamine" as defined in subdivisions (1) through
10 (11), above, shall be treated as Class A felonies for purposes of Title 13A,
11 including sentencing under Section 13A-5-9. Provided, however, that the
12 sentence of imprisonment for a defendant with one or more prior felony
13 convictions who violates subdivisions (1) through (11) of this section shall
14 be the sentence provided therein, or the sentence provided under Section
15 13A-5-9, whichever is greater. Provided further, that the fine for a
16 defendant with one or more prior felony convictions who violates
17 subdivisions (1) through (11) of this section shall be the fine provided
18 therein, or the fine provided under Section 13A-5-9, whichever is greater.

19 "(13) Notwithstanding any provision of law to the contrary, any
20 person who has possession of a firearm during the commission of any act
21 proscribed by this section shall be punished by a term of imprisonment of
22 five calendar years which shall be in addition to, and not in lieu of, the
23 punishment otherwise provided, and a fine of twenty-five thousand dollars

8. AMENDMENT OF TRAFFICKING STATUTE

1 (\$25,000); the court shall not suspend the five-year additional sentence of
2 the person or give the person a probationary sentence."

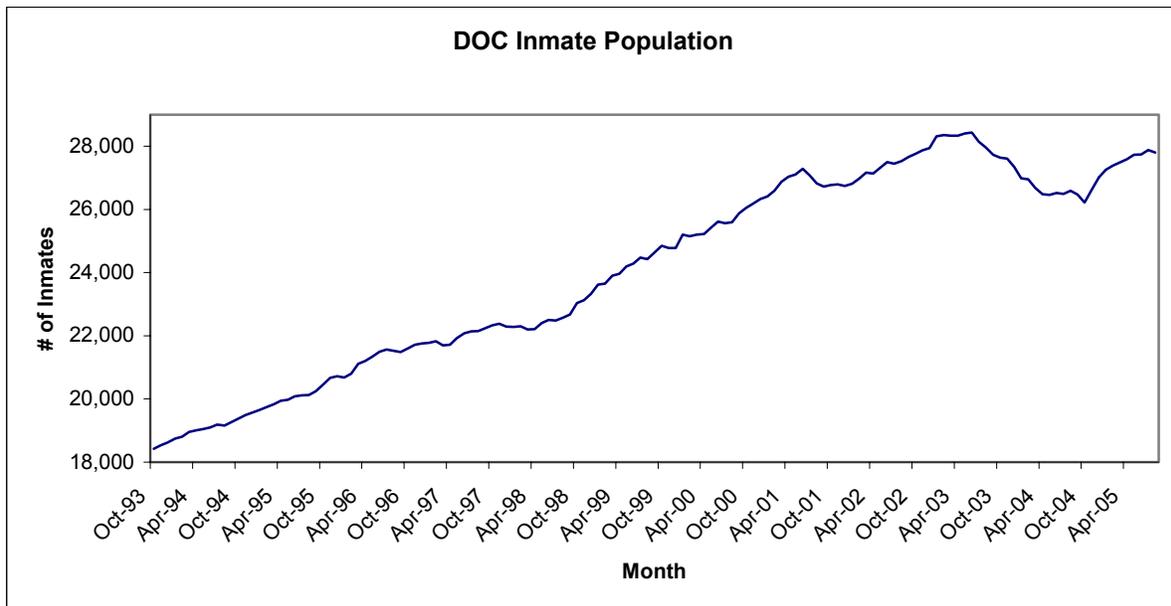
3 Section 2. This act shall become effective on the first day of the
4 third month following its passage and approval by the Governor, or its
5 otherwise becoming law.

6

APPENDIX B

Figure 1 below displays the growth in DOC population from October 1993 through April 2005. The growth in the population in DOC has been constant with the exception of one period of time. The implementation of special parole dockets in April 2003 caused the population of DOC to decline until October 2004, when the population of DOC started to grow once again.

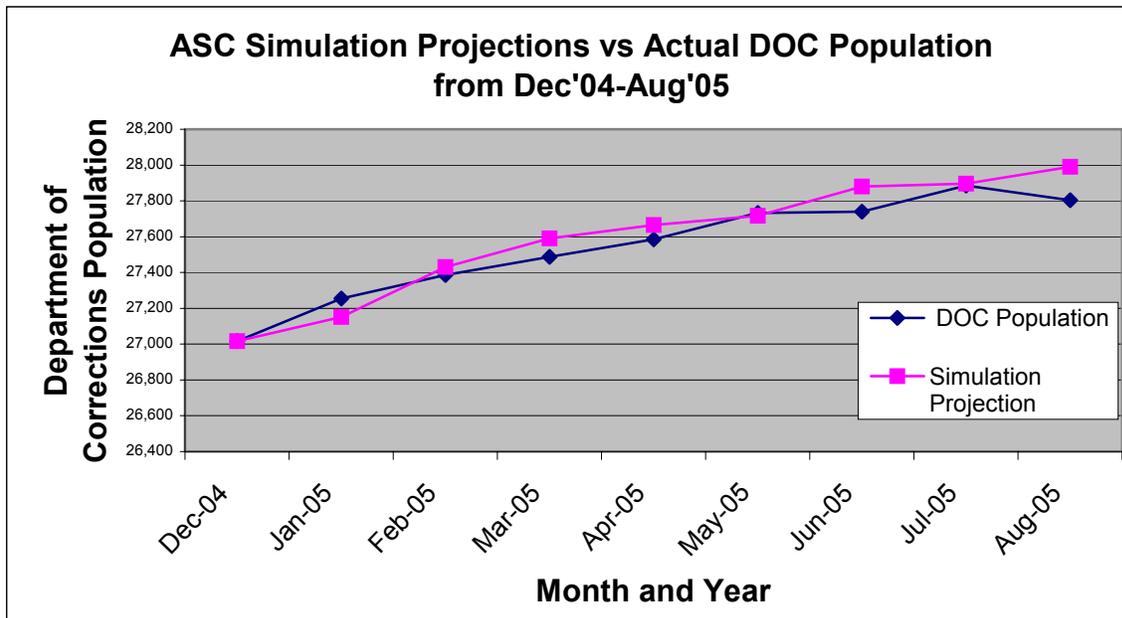
Figure 1



APPENDIX B

Figure 2 shows the comparison between the projections from the Alabama Sentencing Commission's simulation model and the actual population of DOC by month from December 2004 through August 2005. This graph shows how closely the projections from the Sentencing Commission have mirrored the actual growth in DOC.

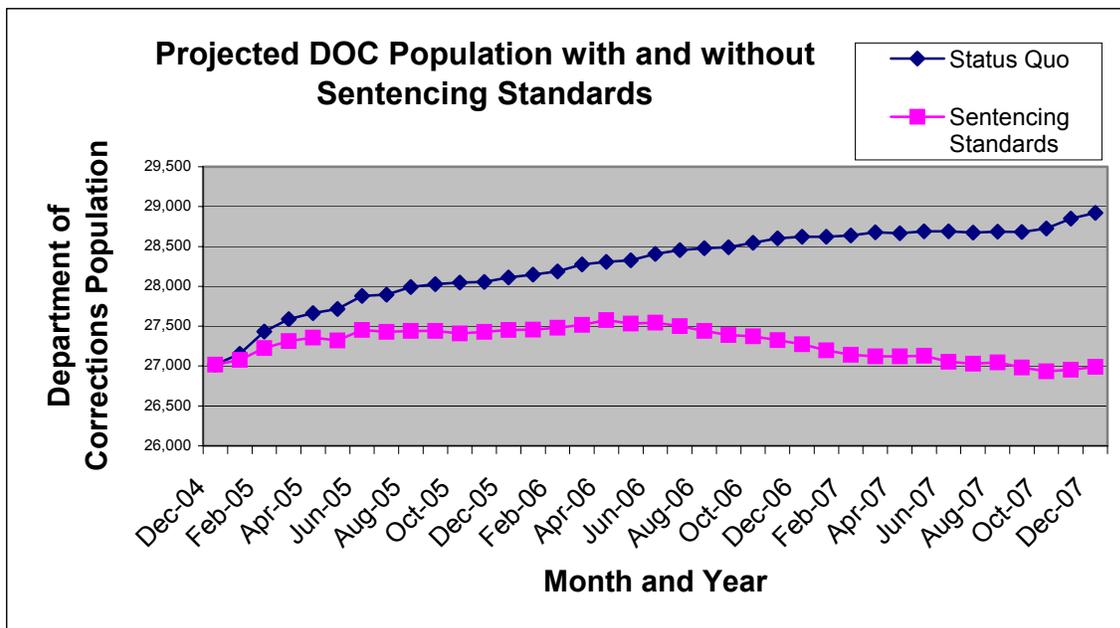
Figure 2



APPENDIX B

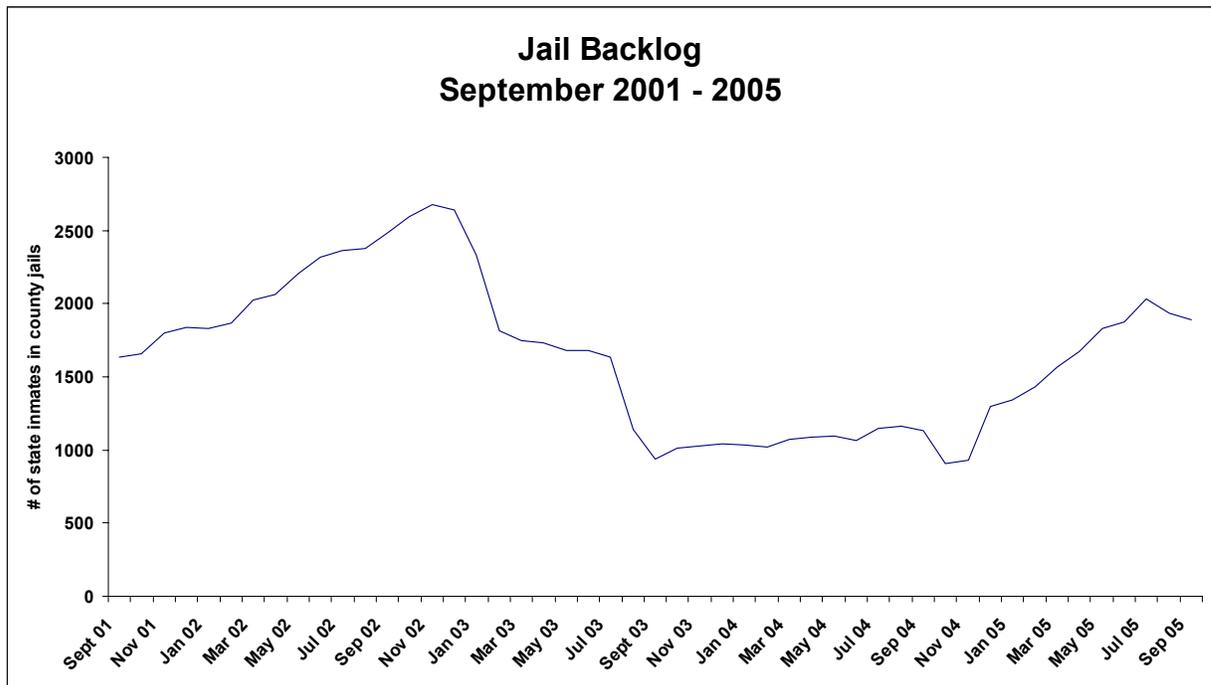
Figure 3 outlines the differences of the projected population of DOC with and without the implementation of the Alabama Sentencing Commission's proposed sentencing standards. The projections in this graph are based on the sentencing standards being implemented October 1, 2005. As the graph displays, the sentencing standards very quickly start to quell the increase in DOC population.

Figure 3



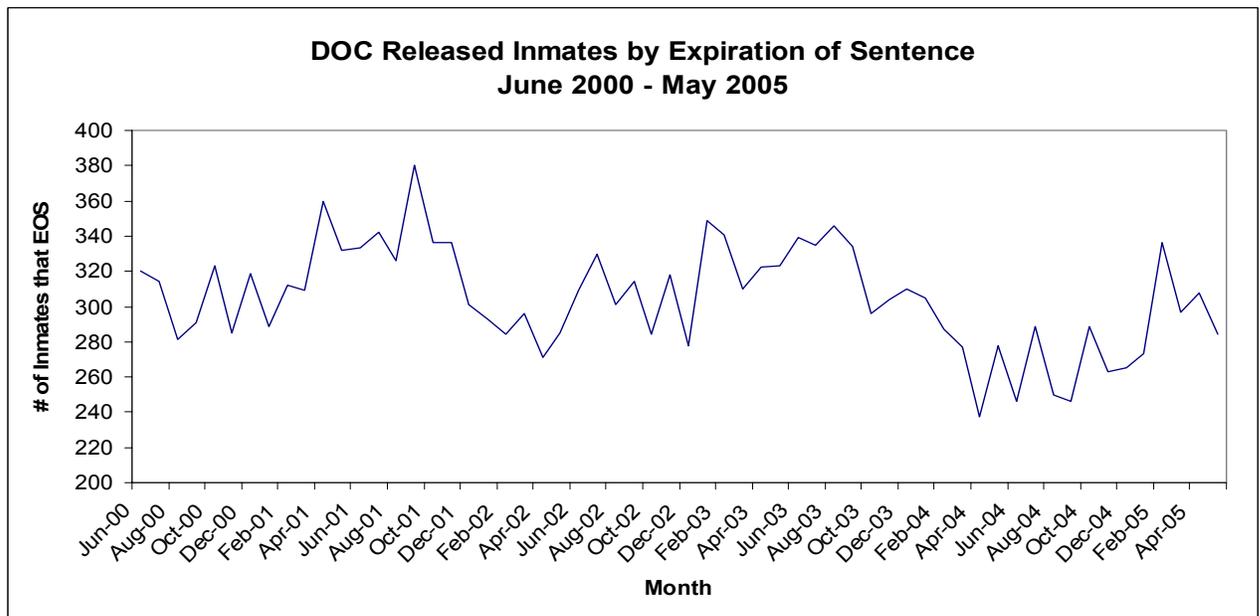
APPENDIX C

The backlog of state inmates in the county jails continues. Comparing the jail backlogs reported in the month of September for the years 2001 – 2005, shows that there were 254 more inmates in county jails in September of 2005 (1877 inmates) than in September 2001 (1633 inmates). The only time that the backlog has been greater than in the months July, August and September of 2005 was in 2002.



APPENDIX D

EOS releases ranged from a high of 380 inmates in September 2001 to a low of 237 inmates in April 2004 during this time period. The number of EOS releases varies monthly and doesn't appear to follow any discernable pattern. One pattern that does emerge from this graph is the reduction in EOS releases corresponding to the special parole docket in April 2003. The reduction in EOS releases as a result of the special docket has been followed by growth in EOS releases following the completion of the special docket.



APPENDIX E

Counties served by Community Punishment and Corrections Programs

The 25 existing community punishment and corrections programs in the state that serve 34 counties are:

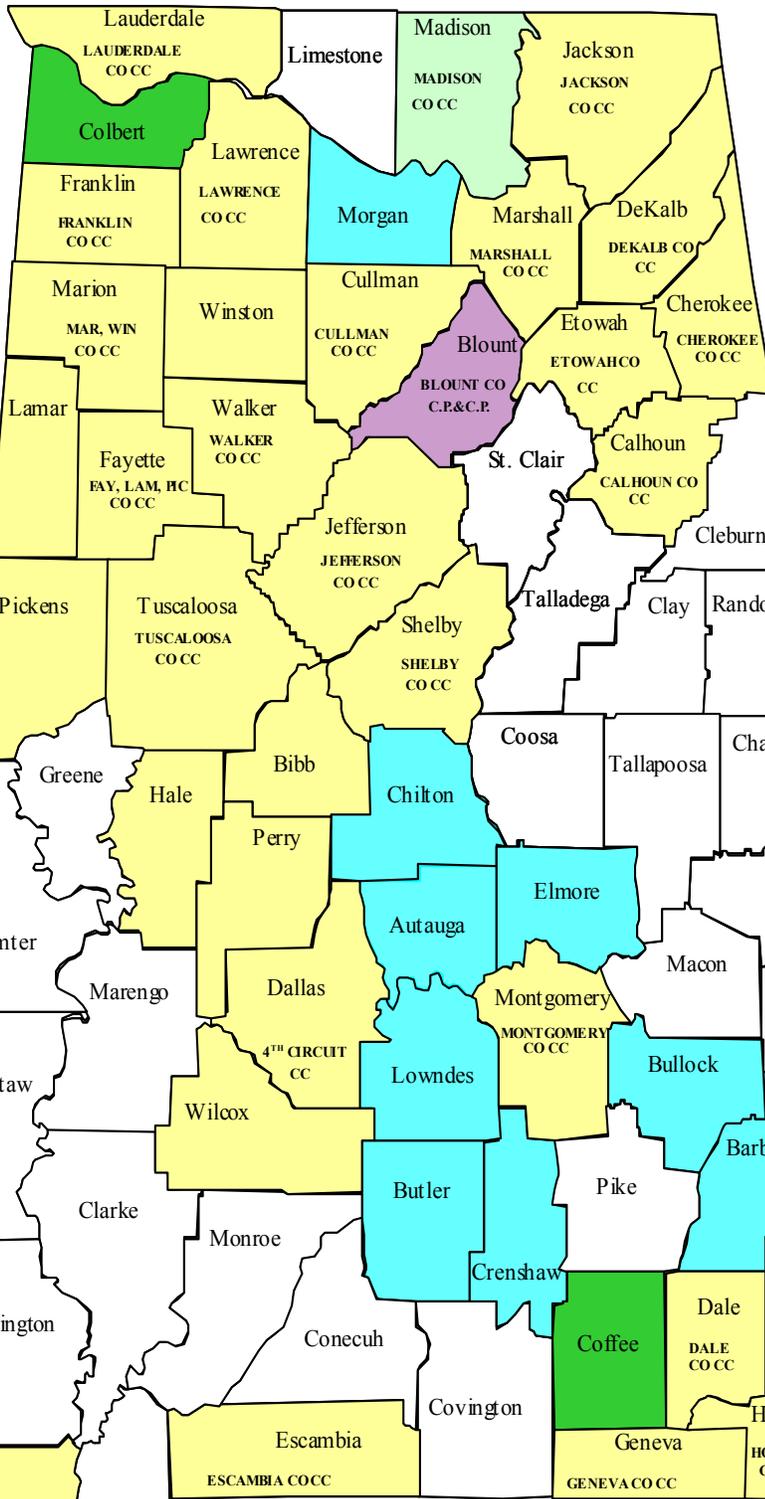
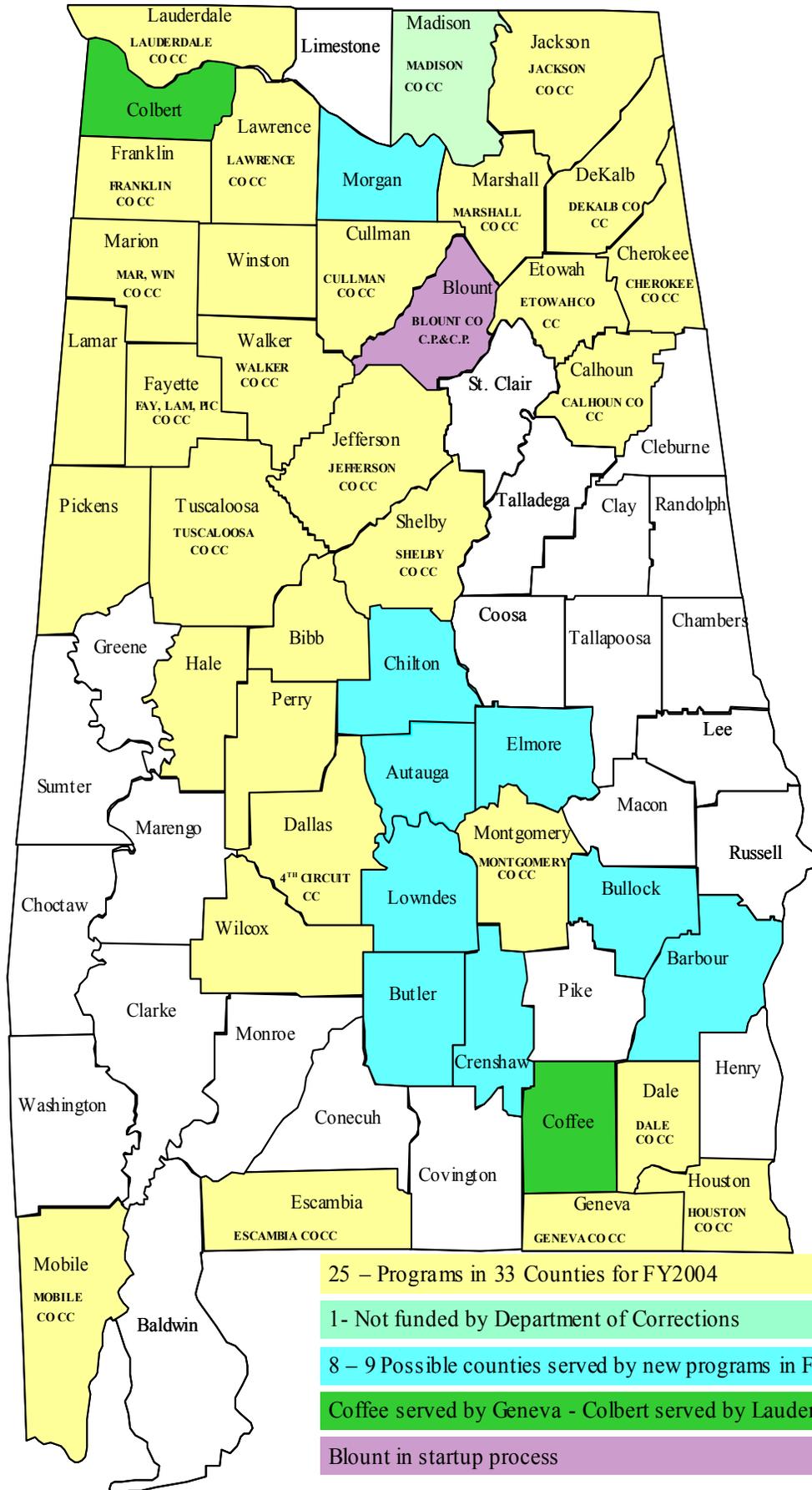
1. Bibb – 4th Judicial Circuit Community Corrections
2. Blount¹ - Blount County Community Corrections
3. Calhoun - Calhoun County Community Punishment & Corrections Authority
4. Cherokee - Cherokee County Community Corrections
5. Coffee² - Geneva & Coffee County Community Corrections
6. Colbert³ - Lauderdale County Community Corrections & Punishment Authority
7. Cullman - Cullman County Community Corrections
8. Dale - Dale County Community Corrections
9. Dallas – 4th Judicial Circuit Community Corrections
10. DeKalb - DeKalb County Community Corrections
11. Escambia - Escambia County Community Corrections
12. Etowah - Etowah Community Corrections
13. Fayette - Fayette, Lamar & Pickens Counties Community Corrections
14. Franklin - Franklin County Community Corrections
15. Geneva - Geneva & Coffee County Community Corrections
16. Hale – 4th Judicial Circuit Community Corrections
17. Houston - Houston County Community Corrections
18. Jackson - Jackson County Community Punishment & Corrections
19. Jefferson - Jefferson County Community Corrections – TASC
20. Lamar - Fayette, Lamar & Pickens Counties Community Corrections
21. Lauderdale -Lauderdale County Community Corrections & Punishment Authority
22. Lawrence - Lawrence County Community Corrections
23. Madison⁴ - Madison County Office of Alternative Sentencing and Release
24. Marion - Marion & Winston Counties Community Corrections
25. Marshall - Marshall County Community Corrections
26. Mobile - Mobile County Community Corrections Center
27. Montgomery - Montgomery County Community Punishment and Corrections
28. Perry – 4th Judicial Circuit Community Corrections
29. Pickens - Fayette, Lamar & Pickens Counties Community Corrections
30. Shelby - Shelby County Community Corrections
31. Tuscaloosa - Tuscaloosa County Community Corrections
32. Walker - Walker County Community Corrections
33. Wilcox – 4th Judicial Circuit Community Corrections
34. Winston - Marion & Winston Counties Community Corrections

¹Blount County plan was approved by the Blount County Commission October 2004 and has been submitted to DOC for funding.

²Coffee County served by Geneva & Coffee Community Corrections does not receive funding through the Department of Corrections.

³Colbert County is served by Lauderdale County for DOC felony diversions.

⁴Madison County Office of Alternative Sentencing and Release is not funded by the Alabama Department of Corrections (DOC)



Circuit	County	Formed	Director	Type of Program	Contact Info	Phone	Notes about Program
4 th	Bibb Dallas Hale Perry Wilcox	2004	Kenyatta Y. Ray	Non-Profit 501(c)(3)	Alabama's Fourth Judicial Circuit Community Corrections Program PO Box 1435 105 Lauderdale Street Selma, AL 36702 Kray1105@dis.net	334-877-1778 F 334-8771786	
6 th	Tuscaloosa	1994	Dan Boisot CRO	Authority SJIC/AOC/ Passport	Tuscaloosa County Community Corrections L. Daniel Boisot Sr., Director 3130 35th. Street Tuscaloosa, AL 35111 e-mail-dirtccc@tuscco.com	205-759-2137 F 205-758-8967	CRO Have CJIS/AOC/ Passport
7 th	Calhoun ²	1993	William Robison	Non-Profit 501(c)(3)	Calhoun County Community Punishment & Corrections Authority William Robison, Director 1702 Noble Street, Suite 117 Anniston, Alabama 36201	256-231-1877 F 256-231-1881	CRO
9 th	Cherokee	1997	Michael Terrell	Non-Profit 501(c)(3)	Cherokee County Court Referral Services/Cherokee County Community Corrections Michael Terrell 102 Main Street (Room 102) Centre, Alabama 35960 Reachable2002@yahoo.com	256-927-3111 F 256-927-3130	CRO
9 th	DeKalb	1993		Non-Profit 501(c)(3)	DeKalb County Community Corrections Doug Parker, Director PO Box 1031 Ft. Payne, Alabama 35967 Stacey Neeley Stacey.neeley@alacourt.gov	256-845-8542 F 256-845-8543	CRO

Circuit	County	Formed	Director	Type of Program	Contact Info	Phone	Notes about Program
10 th	Jefferson	1973	Foster Cook	Non-Profit 501(c)(3)	Jefferson County Community Corrections – TASC Foster Cook and/or Ralph Hendrix UAB TASC 401 Beacon Parkway West Birmingham, AL 35209 fcCook@uab.edu rhendrix@uab.edu	205-917-3780	CRO Have CJIS/AOC/ Passport
11 th	Lauderdale	10/2002	Derryl Shimer	Non-Profit Authority	Lauderdale County Community Corrections & Punishment Authority Derryl Shimer, Director 200 South Court Street, Room 506 Florence, AL 3563	256-768-7556 F 256-768-7546	
33rd	Geneva	2001		Non-Profit	Geneva and Coffee Co. Community Corrections Larry McKay, Director 208 Colonial Avenue Dothan, Alabama 36301 email mckaylm@graceba.net www.safeprogram.org	334-792-5945 F 334-699-2158	
12 th	Coffee ⁴						
13 th	Mobile	5/1991	Joe Mahoney	County	Mobile County Community Corrections Center Joseph A. Mahoney, II 111 Canal Street Mobile, Alabama 36603 jamahoney@alabamacourt.net	251-574-6444 cell 251-421-3484	CRO Have CJIS/AOC/ Passport

Circuit	County	Formed	Director	Type of Program	Contact Info	Phone	Notes about Program
14 th	Walker	2002	Dana Anderson	Non-Profit	Walker County Community Corrections Dana Anderson, Director PO Box 1385 Jasper, Al 35502-1385 danasexpress@netscape.net	205-384-7251	CRO
15 th	Montgomery	2002	Don Parker	Authority	Montgomery County Community Punishment and Corrections Don Parker, Executive Director donparker@mc-ala.org Montgomery County Community Corrections P.O. Box 1667 Montgomery, Alabama 36102-1667	334-832-7730	
16 th	Etowah	1995	Dominique Langdon	Authority	Etowah Community Corrections Dominique Langdon, Director 801 Forrest Ave., Suite 102 Gadsden, Al 35901	256-439-6035 F 256-439-6041	
18 th	Shelby	1991	David Horn	Non-Profit 501(c)(3)	Shelby County Community Corrections David Horn, Executive Director DavidH@shelbycountyalabama.net PO Box 1810 Columbiana, Al 35051	205-669-3950 205-669-8965 Fax 250-669-3998	

Circuit	County	Formed	Director	Type of Program	Contact Info	Phone	Notes about Program
20 th	Houston ¹	1993	Gary Knight	Authority	Houston County Community Corrections Gary Knight, Director Alternative Sentencing Houston County Courthouse 114 North Oates Street PO Box 6406 Dothan, Alabama 36302 gknight@houstoncounty.org or .net	334-671-8725 F 334-673-9452	No CJIS/AOC/ Passport
21 st	Escambia	2002	Jerry Caylor	County Agency 1-2005 wants to change to Authority	Escambia County Community Corrections Jerry Caylor, Director PO Box 1273 Brewton, Al 36427 jerry.caylor@alacourt.gov	251-867-0368	
23 rd	Madison <i>*receives no funding by DOC</i>	1978	Jackie L. Wolfe	County	Madison County Office of Alternative Sentencing and Release Jackie L. Wolfe, Jr., Director 100 Northside Square Huntsville, Al 35801	256-532-6901 F 256-532-3642	CRO
24 th	Fayette Lamar Pickens	1995	Lenetta Barnes CRO	Non-Profit 501(c)(3)	Fayette, Lamar & Pickens Counties Community Corrections Lenetta Barnes, Director 310 1 st Court NW Fayette, Al 35555 Lamar Community Corrections PO Box 1316 Vernon, Al 35592	205-932-5945 Lamar County 205.695.7483	

Circuit	County	Formed	Director	Type of Program	Contact Info	Phone	Notes about Program
25 th	Winston Marion		Judie Osborne CRO	Non-Profit 501(c)(3)	Marion & Winston County Community Corrections Judie Osborne, Director PO Box 1555 Winfield, Al 35594 judie@dliis.net	205-487-0608 F 205-487-0661	
27 th	Marshall	1993	Bill Strickland	Non-Profit 501(c)(3) Authority	Marshall County Community Punishment & Corrections Authority Bill Strickland, CFO Nickie Elrod/Director 119 Sand Mountain Drive West Albertville, Al 35950 mcccbill@bellsouth.net	256-894-9969 F 256-894-8255	CRO
31 st	Colbert ³				Gary Wallace		
32 nd	Cullman	April 1993	Sandra Allums	Non-Profit 501(c)(3)	Cullman County Community Corrections Sandra Allums, Director 422 2 nd Ave SW Rm 201 Cullman, Al 35055 ccorrect@bellsouth.net	256-775-1515 F 256-775-1488	
33 rd	Dale		Angelia Enfinger	Non-Profit 501(c)(3) as of 7/6/04 CRO	Dale County Community Corrections Angelia Enfinger, Director PO Box 2513 Ozark, Al 36361 Angelia.enfinger@alacourt.gov	334-774-9135	Have CJIS/AOC/ Passport

Circuit	County	Formed	Director	Type of Program	Contact Info	Phone	Notes about Program
34 th	Franklin	10/2001	Gene Pierce	Non-Profit 501(c)(3) CRO	Franklin County Community Corrections Eugene Pierce, Director PO Box 790 Russellville, AI 35653 hepierce@bellsouth.net	256-332-8856 F 256-332-8424	
36 th	Lawrence	1993	Nena Shelton	Non-Profit 501(c)(3)	Lawrence County Community Corrections Nena Shelton, Director PO Box 715 Moulton, AI 35650 nsheltonlccc@aol.com	256-974-2570 F 256-974-2584	
38 th	Jackson	1999	Mike Brown	Non-Profit 501(c)(3)	Jackson County Community Punishment & Corrections Mike Brown, Director PO Box 121 Scottsboro, AI 3576 Dennis Crownover dcrownover@hi-jackson.net	256-574-9377 F 256-574-9340	CRO
41 st	Blount ⁵	2004	Carol Roberts	Non-Profit 501(c)(3)	Blount County Community Corrections Daryl Wheeler PO Box 772 Oneonta, AI 35121 darylhw@doggonesoftware.com	Home 205-274-9380 cell 205-353-1794	

¹ Henry County in the 20th Judicial Circuit is not part of the Houston County Program.

² Cleburne County in the 7th Judicial Circuit is not part of the Calhoun County Program.

³ Colbert County served by Lauderdale County Community Corrections program for DOC diversions.

⁴ Coffee County in the 12th Judicial Circuit served by Geneva & Coffee County Community Corrections for full services but is not funded by DOC.

⁵ Blount County plan approved by County Commission in October 2004 - plan to be submitted to DOC.



BOB RILEY
GOVERNOR

State of Alabama
Alabama Department of Corrections

301 South Ripley Street
P. O. Box 301501
Montgomery, AL 36130



DONAL CAMPBELL
COMMISSIONER

September 20, 2005

Community Corrections Program Directors:

Dear Director:

The Alabama Department of Corrections (ADOC) is asking you to assist us in reducing the current populations in our State's prisons and county jails. In order for you to effectively assist in this goal, the ADOC is implementing for an indefinite period, special reimbursement rates for eligible inmates under an ADOC sentence either housed in a county jail or a state facility who have a sentence date prior to September 15, 2005.

- Until further notice the ADOC will reimburse community corrections programs for diverting eligible inmates under a felony sentence dated prior to September 15, 2005, a rate of \$15 per day for the initial three months, \$10 per day for the next 6 months and \$5 per day for the remainder of the two year period.

In order to qualify for this temporary special diversion the sentencing court must issue an amended transcript transferring the state sentence to the community corrections program.

Again, this reimbursement rate will only apply to those inmates, who are eligible for community corrections placement under state law, are sentenced to a state felony sentence prior to September 15, 2005 who are either in an ADOC facility or awaiting transfer to ADOC. The ADOC ten-point checklist will not apply to this program.

I of course encourage each of you to work diligently with your courts to accept eligible inmates into your programs at the time of sentencing. Sentencing eligible inmates directly to the community corrections program will reduce the need for amended transcripts that result in additional work for the court, circuit clerks and the ADOC Central Records Division while affording your program the opportunity to seek a higher rate of reimbursement for each approved "front end" diversion.

If you can assist the ADOC in this endeavor please contact Mr. Jeffery Williams for additional details at 334-353-4633.

Thank you for your consideration,

Donal Campbell, Commissioner

CC: Jeff Williams



BOB RILEY
GOVERNOR

State of Alabama
Alabama Department of Corrections

301 South Ripley Street
P. O. Box 301501
Montgomery, AL 36130



DONAL CAMPBELL
COMMISSIONER

September 27, 2005

CCP Directors please note the following regarding this Special Diversion Program for those with original sentence dates prior to September 15, 2005:

- These special diversions should be listed on a separate sheet when sent in with your monthly invoice
- Label the sheet "Special Diversion Program"
- A judge's order transferring the inmate to CCP and an amended transcript will be required from the circuit clerk's office and sent to Central Records (as always)
- Copies of orders and amended transcripts should be sent by CCP Directors to Jeffery Williams with the monthly invoice (in order for ADOC to immediately reimburse the programs)
- The ADOC approval process for the "Special Diversion Program" will follow the Institutional Diversion process
- Authorization to transfer an inmate from a county jail to a CCP should occur only after ADOC approves the movement via a Teletype being sent to the county jail.

(334) 353-3870

(334) 353-3967

APPENDIX F

- 1. Prison Industry Contracts – DOC Version**
- 2. DOC Contract with Private Industries – Judicial Study Commission (1988)**
- 3. Sale of Prison-Made Goods to Nonprofit Organizations**

1 **1. DOC Prison Industry Contracts**

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SYNOPSIS: Existing law does not allow the Department of Corrections to operate or contract with the private sector for involvement in a prison industry program that includes contracts for the operation of a direct private sector business within a prison and the hiring of inmates.

 This bill would allow the Department of Corrections to contract for or to operate with the private sector prison industry program that includes contracts for the operation of a direct private sector business within the state prisons and the hiring of inmates, would provide that the use of any inmates in the program would be on a voluntary basis, would authorize the department to make purchases and employ personnel to establish and maintain the prison industries, would require purchase of products produced by inmate labor by state departments, offices, institutions, agencies, and political subdivisions under certain

1 circumstances, would establish a Prison Industries
2 Account in the State Treasury, would provide for
3 collection and distribution of funds, would
4 prohibit the sale of prison-made products on the
5 open market under certain circumstances, would
6 authorize inmate labor in private industry, would
7 require a statewide uniform for inmates in private
8 industry, and would provide penalties.

9 Amendment 621 of the Constitution of Alabama
10 of 1901 prohibits a general law whose purpose or
11 effect would be to require a new or increased
12 expenditure of local funds from becoming effective
13 with regard to a local governmental entity without
14 enactment by a 2/3 vote unless: it comes within one
15 of a number of specified exceptions: it is approved
16 by the affected entity; or the Legislature
17 appropriates funds, or provides a local source of
18 revenue, to the entity for the purpose. The purpose
19 or effect of this bill would be to require a new or
20 increased expenditure of local funds within the
21 meaning of Amendment 621. However, the bill does
22 not require approval of a local governmental entity
23 or enactment by 2/3 vote to become effective
24 because it comes within one of the specified
25 exceptions contained in Amendment 621.

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A BILL
TO BE ENTITLED
AN ACT

Relating to the prison industry program: to authorize the Department of Corrections to contract or operate with the private sector for a prison industry program that includes contracts for the operation of a direct private sector business within the state prisons and the hiring of inmates; to provide that the use of any inmates in the program would be on a voluntary basis; to authorize the department to make purchases and employ personnel to establish and maintain the prison industries; to require purchase of products produced by inmate labor by state departments, offices, institutions, agencies, and political subdivisions under certain circumstances; to establish a Prison Industries Account in the State Treasury and to provide for collection and distribution of funds; to prohibit the sale of prison-made products on the open market under certain circumstances; to authorize inmate labor in private industry; to require a statewide uniform for inmates in private industry; to provide for penalties; and in connection therewith would have as its purpose of effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. The Legislature finds that the means now
2 provided for the employment of inmate labor is inadequate
3 to furnish a sufficient number of inmates with employment,
4 therefore it is the intent of this act to do all of the
5 following:

6 (1) Provide more adequate, regular, and suitable
7 employment for the inmates of this state, consistent with
8 proper penal purpose.

9 (2) Utilize the labor of inmates for
10 self-maintenance and for reimbursing this state for expenses
11 incurred by reason of their crimes and imprisonment.

12 (3) Effect the requisitioning and disbursement of
13 prison products directly through established state authorities
14 with no possibility of private profits therefrom.

15 (4) Provide prison industry projects designed to
16 place inmates in a realistic working and training environment
17 in which they are able to acquire marketable skills and to
18 make financial payments for restitution to their victims, for
19 support of their families, and for the support of the inmates
20 while incarcerated.

21 Section 2. The Department of Corrections shall
22 ensure that inmates participating in any prison industry
23 program pursuant to the Justice Assistance Act of 1984 is on a
24 voluntary basis. The commissioner shall determine prior to
25 using inmate labor in a prison industry project that it will
26 not displace employed workers, that the locality does not have

1 a surplus of available labor for the skills, crafts, or trades
2 that would utilize inmate labor, and that the rates of pay and
3 other conditions of employment are not less than those paid
4 and provided for work of similar nature in the locality in
5 which the work is performed.

6 Section 3. The department may purchase, in the
7 manner provided by law, equipment, raw materials, and supplies
8 and engage the supervisory personnel necessary to establish
9 and maintain for this state at the penitentiary or any penal
10 farm or institution now, or hereafter, under control of the
11 department, industries for the utilization of services of
12 convicts in the manufacture or production of such articles or
13 products as may be needed for the construction, operation,
14 maintenance, or use of any office, department, institution, or
15 agency supported in whole or in part by this state and the
16 political subdivisions thereof.

17 Section 4. (a) All offices, departments,
18 institutions, and agencies of this state supported in whole or
19 in part by this state shall purchase, and all political
20 subdivisions of this state may purchase from the department
21 directly without solicitation of competition bid, articles or
22 products made or produced by inmate labor in this state or
23 another state as provided by this act. These articles and
24 products shall not be purchased by an office, a department, an
25 institution, or an agency from another source, unless excepted
26 from the provisions of this section, as provided by law. All

1 purchases shall be made from the Department of Corrections,
2 upon requisition by the proper authority of the office,
3 department, institution, agency, or political subdivision of
4 this state requiring the articles or products.

5 (b) The Finance Department shall monitor the
6 cooperation of state offices, departments, institutions, and
7 agencies in the procurement of goods, products, and services
8 from the Division of Prison Industries of the department.

9 Section 5. Notwithstanding the provisions of Section
10 1 to 4, inclusive, and Sections 6 and 7, no state office,
11 department, institution or agency, which is supported in whole
12 or in part by the state, shall be required to purchase any
13 article or product from the department unless the purchase
14 price of the article or product is no higher than that
15 obtainable from any other producer or supplier, provided the
16 items or articles are of comparable quality and durability.

17 Section 6. All monies collected by the department
18 from the sale or disposition of articles and products
19 manufactured or produced by inmate labor, in accordance with
20 the provisions of this act, shall be forthwith deposited with
21 the State Treasurer to be kept and maintained in a special
22 revolving account designated Prison Industries Account, and
23 the monies so collected and deposited shall be used solely for
24 the purchase of manufacturing supplies, equipment, machinery,
25 and buildings used to carry out the purpose of this act, as
26 well as for the payment of the necessary personnel in charge,

1 and to otherwise defray the necessary expenses incident
2 thereto and to discharge any existing obligation to the
3 General Fund, all of which shall be under the direction and
4 subject to the approval of the Director of the Finance
5 Department. The department shall contribute an amount of not
6 less than five percent nor more than 20 percent of the gross
7 wages paid to inmate workers participating in any prison
8 industry project established pursuant to the Justice
9 Assistance Act of 1984 (P.L. 98-473), and promptly place these
10 funds on deposit with the State Treasurer for credit to a
11 special account to support victim assistance programs
12 established pursuant to the Crime Victims Compensation Act.
13 The Prison Industries Account shall never be maintained in
14 excess of the amount necessary to effectively and properly
15 carry out this act. When, in the opinion of the Finance
16 Director, the Prison Industries Account has reached a sum in
17 excess of the requirements of this act, the excess shall be
18 used by the department for operating expenses and permanent
19 improvements to the state prison system, subject to the
20 approval of the Finance Director.

21 Section 7. (a) It is unlawful to sell or offer for
22 sale on the open market of this state articles or products
23 manufactured or produced wholly or in part by inmates in this
24 or another state.

25 (b) The provisions of this section shall not apply
26 to any of the following:

1 (1) Articles manufactured or produced by persons on
2 parole, probation, or community supervision.

3 (2) The production of agricultural commodities
4 included, but are not limited to, livestock, agricultural
5 species, silvacultural products, and agronomic and
6 horticultural crops.

7 (3) Articles or products sold to nonprofit
8 corporations, organizations operating in this state which have
9 been granted an exemption under Section 501(c) of the Internal
10 Revenue Code of 1986.

11 (c) A person violating this section is guilty of a
12 Class B misdemeanor. Each sale or offer for sale is a separate
13 offense under this section.

14 Section 8. (a) The commissioner of the department
15 may establish a program involving the use of inmate labor by a
16 nonprofit organization or in private industry for the
17 manufacturing and processing of goods, wares, or merchandise
18 or the provision of services or another business or commercial
19 enterprise considered by the commissioner to enhance the
20 general welfare of Alabama. No violent offender shall be
21 afforded the opportunity to perform labor for nonprofit
22 organizations if such labor is outside the confines of a
23 correctional institution. Inmates participating in such labor
24 shall not benefit in any manner contradictory to existing
25 statutes.

1 (b) The commissioner may enter into contracts
2 necessary to implement this program. The contractual
3 agreements may include rental or lease agreements for state
4 buildings or portions of them on the grounds of an institution
5 or a facility of the department and provide for reasonable
6 access to and egress from the building to establish and
7 operate a facility.

8 (c) An inmate may participate in the program
9 established pursuant to this section only on a voluntary basis
10 and only after he or she has been informed of the conditions
11 of his or her employment.

12 (d) No inmate participating in the program may earn
13 less than the prevailing wage for work of similar nature in
14 the private sector.

15 (e) Inmate participation in the program may not
16 result in the displacement of employed workers in the State of
17 Alabama and may not impair existing contracts for services.

18 (f) Nothing contained in this section restores, in
19 whole or in part, the civil rights of an inmate. No inmate
20 compensated for participation in the program is considered an
21 employee of the state.

22 (g) No inmate who participates in a project
23 designated by the Director of the Bureau of Justice Assistance
24 pursuant to Public Law 90-351 shall be eligible for
25 unemployment compensation upon termination from the program.

1 (h) The earning of an inmate authorized to work at
2 paid employment pursuant to this section shall be paid
3 directly to the department.

4 Section 9. Notwithstanding any other provisions of
5 law, any state or local inmate who is not in the highest
6 trusty grade and who is assigned to a work detail outside the
7 confines of any correctional facility shall wear a statewide
8 uniform. The uniform must be of a design and color as to be
9 easily identified as an inmate's uniform. The Division of
10 Prison Industries shall manufacture the statewide uniform and
11 make it available for sale to the local detention facilities.
12 The commissioner may determine that the provisions of this
13 section do not apply to certain inmates.

14 Section 10. The provisions of this act are
15 severable. If any part of this act is declared invalid or
16 unconstitutional, that declaration shall not affect the part
17 which remains.

18 Section 11. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621 because the
22 bill defines a new crime or amends the definition of an
23 existing crime.

24 Section 12. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.

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2. Private Business Contracts

Synopsis: This bill provides authority for the department of corrections to contract or enter into agreements with private industry to establish effective, work oriented rehabilitation programs.

**A B I L L
T O B E E N T I T L E D
A N A C T**

To provide authority for the department of corrections to contract or enter into agreements with private industry to establish effective, work oriented rehabilitation programs in an actual private enterprise work environment.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. In order to implement work oriented rehabilitation programs in an actual private enterprise work environment, the commissioner of the Alabama department of corrections, or such persons as he may designate, is hereby authorized to contract or enter into agreement with private individuals, enterprises, partnerships or corporations to develop joint plants, businesses, factories or commercial enterprises. Such contracts or agreements will be limited to those in which the department of corrections will contract or agree to furnish inmate labor to work in facilities furnished by such party or parties as enter into contracts or agreements with the department of corrections. Such facilities shall be located on department of corrections owned property.

Section 2. All products, goods or items produced by work done under the auspices of such contracts or agreements shall be marketed by the party or parties that entered into the contract or agreement with the department of corrections. In no instance shall the department of corrections market these products, goods or items.

Section 3. The department of corrections and such party or parties that enter into contracts or agreements under this act shall be exempt from the provisions and/or penalties of Section 14-5-2, 14-7-9 & 14-7-22 of the Code of Alabama 1975.

Section 4. This act shall become effective immediately upon its approval by the governor, or upon its otherwise becoming law.

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3. Sale of Prison-Made Goods to Nonprofit Organizations

Synopsis: This bill provides that non-profit organizations in the state may purchase goods and services through the purchases and stores division of the department of finance and purchase products and services offered by the correctional industries division of the department of corrections.

**A BILL
TO BE ENTITLED
AN ACT**

Providing for non-profit organizations in the state to purchase goods and services through the purchases and stores division of the department of finance, upon request, and purchase products and services offered by the correctional industries division of the department of corrections.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Any non-profit organizations operating in this state which have been granted an exemption under the provisions of Title 40-18-32, Code of Alabama 1975, or approved by the federal internal revenue service may purchase goods and services through the purchases and stores division of the state department of finance and purchase products and services offered by the correctional industries division of the department of corrections.

Section 2. This provisions of this act are severable. If any part of the Is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

1 **Section 3.** This act shall become effective immediately upon its passage and
2 approval by the Governor, or its otherwise becoming a law.

3

APPENDIX G

DOC Drug Treatment Programs

1. There are 58 drug treatment programs within the system. 8 Crime Bill programs, 1 Drug Free program, 16 8-WK Substance Abuse Programs, 7 120-hour Relapse programs, 1 6-month Relapse program, 2 12-month Therapeutic Communities, 1 15-WK Dual Diagnosis program, and 22 Aftercare programs. Refer to drug treatment program chart for locations. Hard copy provided.

2. Number of inmates currently participating in drug treatment programs as of Sept 1, 2005:

1. 8-WK SAP = 553
 2. Crime Bill = 323
 3. Therapeutic Community = 224
 4. Dual Diagnosis = 70
 5. Relapse = 326
 6. Aftercare = 935
- Total participating this month = 2431

3. Number of inmates on waiting lists as of Sept 1, 2005:

1. 8-WK SAP = 29
 2. Crime Bill = 0
 3. Therapeutic Community = 29
 4. Dual Diagnosis = 0
 5. Relapse = 60
 6. Aftercare = 10
- Total Waiting List this month = 128

4. Staff assigned to programs and positions:

1. 8-WK SAP = 33
 - a) Counselors = 28
 - b) Supervisors = 1
 - c) Specialists = 4
2. Crime Bill = 19
 - a) Counselors = 15
 - b) Specialists = 4
3. Therapeutic Community = 4
 - a) Counselors = 2
 - b) Specialists = 2
4. Dual Diagnosis = 2
 - a) Counselors = 1
 - b) Specialists = 1
5. Relapse = 12
 - a) Counselors = 11
 - b) Specialists = 1

5. Program effectiveness:

The recidivism rate for the general prison population is 30.1%. Recidivism for inmates completing Crime Bill is 5.61%. We are in the process of putting a system in place to track recidivism rates for those graduating from the other substance abuse programs.